

EBBAGE SEEDS LTD. CONDITIONS OF PURCHASE

1. FORMATION OF CONTRACTS

- (a) All contracts for purchase made by John Ebbage Seeds Ltd ('the Buyer') shall be deemed to incorporate these terms and conditions. No variation of or addition to these terms and conditions shall form part of any contract unless made or specifically accepted in writing by a Director on behalf of the Buyer.
- (b) These terms and conditions shall override and take the place of any other terms and conditions in any documentation used by the Seller in concluding the contract with the Buyer.
- (c) The construction validity and performance of all contracts shall be governed by the laws of England.

2. GOODS

- (a) The goods means the goods specified on the confirmation of purchase
- (b) Quantity: In the case of goods supplied in bulk the Buyer may at its option take up to 10% more or less than the contract quantity.

3. QUALITY STANDARDS

The goods (seeds) delivered to the Buyer must meet the following quality standards in every respect unless otherwise agreed in writing:

- (a) Germination shall be not less than 90% for Pulses and 92% for Cereals.
- (b) The total percentage of split and damaged seed shall not exceed 3%.
- (c) The goods shall be free from sprouted grains.
- (d) The goods shall be free from mould and heated grain, insect or other infestation and objectionable smell or taste and be in a clean well matured conditioned of good colour, quality and appearance, marketable for seed purposes and consistent with the season and seed of the variety in question.
- (e) In addition to meeting the QUALITY STANDARDS the Seller may be requested to provide specific information on germination, percentage of split, sprouted and damaged seed, moisture content and screenings prior to movement, time being of the essence. Failure to do so may render the purchase invalid at the Buyer's discretion.
- (f) The Buyer reserves the right to send his appointed representative to sample seed at his sole discretion.
The Buyer reserves the right to reject or cancel orders for such seed in the event of access being unreasonably denied.
- (g) CEREALS - in addition:
 - (i) The goods shall be free from ergot, bunt, cleavers (*Galium aparine*) Wild onions (*Alium vineale*) Wild Radish (*Raphanus raphanistrum*) Wild Oats (*Avena fatua* and *Avena ludoviciana*) and any other injurious weed seeds and shall not contain any seed of a different cereal variety or species. Other plant species, inert or any other matter shall not be such that in the opinion of the Buyer normal cleaning processes cannot bring the delivery to acceptable certification standards.
 - (ii) The moisture content at the point of delivery shall not exceed 15%.
 - (iii) The loose smut contamination shall not exceed 0.2%.
 - (iv) The level of leaf strip infection shall not exceed 2%.
 - (v) Any 2kg samples drawn from the goods tendered to the Buyer shall have a screening loss of not more than 10% as determined by passing a representative sample over a 2.5 mm grain sieve.
- (h) PEAS AND BEANS - in addition:
 - (i) The level of *Ascochyta* and *Mycosphaorella* infection shall not exceed 3% for Peas or 0% for Beans.
 - (ii) The level of impurity shall not exceed 3%.
 - (iii) Where the delivery contains more than 0.5% earth and dust, the excess weight shall be deducted from the payment weight.
 - (iv) The moisture content both on farm and at point of delivery shall be between 14% and 16%.
 - (v) Peas shall be free of: Marsh spot, Pea Bacterial Blight (*Pseudomonas Syringae* pv *psis*) Pea Seed – borne Mosaic Virus
 - (vi) Beans shall be free of: stem eelworm (*Ditylenchus dipsaci*) Bean seed Bruchid Beetle (*Bruchus rufimanus*)
- (I) OILSEED
 - (i) The goods shall be free of injurious weed seed and shall not contain any seed of a different oilseed variety or species, or inert or any other matter which in the opinion of the buyer cannot be brought up to an acceptable standard by normal cleaning processes.
 - (ii) The moisture content at the point of delivery shall not exceed 9%.
 - (iii) Oilseed Rape - in addition Erucic acid level should not exceed 1% and in the case of 'double low' varieties glucosinolate level should meet EEC standard.
 - (iv) Linseed - in addition Disease levels of *Botrytis* spp. *Alternaria*, *Fusarium*. *Colletoreichum* and *phoma* shall be no more than 5% collectively.

4. WARRANTY

(a) Goods are warranted to have been grown in the United Kingdom and be produce from the harvest immediately prior to delivery unless otherwise agreed in writing.

(b) Pesticide Residue. The Seller warrants that the goods on delivery comply with the provision of the Food and Environment Protection Act 1985 and the Pesticide (Maximum Residue Levels in Food) Regulations 1988. If the Seller or his Supplier has applied any post harvest chemical treatment to the goods, the Buyer must be notified of this fact and supplied with details of that treatment in writing prior to collection/delivery.

5. GROWTH SUPPRESSANT/CONTAMINATION

It is a condition of purchase that the goods described have not at any stage come into direct or indirect contact with any form of growth suppressant or other contamination which may affect the ability of the seed to germinate properly or affect its subsequent growth.

6. DELIVERY/COLLECTION

(a) The Seller shall deliver the goods to the Buyer at the location specified in the contract in good order and good marketable condition, and also in every respect in compliance with the standards and requirements of the Plant Varieties and Seeds Act 1964 and the relevant Seed Regulations in force at the time of delivery.

(b) Delivery shall be made by the Seller free loaded on road vehicles designated by the Buyer on a hard road on the delivery date required and at the time notified by the Buyer. The weight of goods passed on delivery to the Buyer will be determined exclusively and conclusively by a certified Public Weighbridge Certificate which will be obtained by the Buyer as soon as reasonably possible after delivery.

(c) Where seed is supplied on pallets these are only to be charged by prior arrangement.

(d) Where the Buyer contracts to collect processed certified seed from the Seller's store, unless specified on the Buyer's confirmation of purchase, the goods shall be made available solely from the Seller's own processing and storage facilities. Acceptance of alternative collection points will be strictly at the discretion of the Buyer.

(e) Where the Buyer contracts to collect 'as grown' seed lots on specific instructions from the Seller, the Buyer reserves the right to accept subsequent alternative instructions solely at the Buyer's discretion.

(f) The Buyer's receipt for goods shall not constitute an acknowledgement of the condition or nature of the goods.

7. DEMURRAGE

In the case of unreasonable delay in the loading or delivery of goods to the Buyer the Seller shall be fully responsible for the loss to the Buyer that results from such delay.

8. INSTALMENTS

Each delivery or consignment stands as a separate contract.

9. FORCE MAJEURE

Any delays in or failure of performance of the Seller's obligations or any delay or failure by the Buyer in taking delivery of the goods shall not constitute default or give rise to any liability or claim for damages if caused solely or substantially by circumstances beyond the control of the Seller or Buyer (as the case may be) amounting to force majeure. Provided that immediately such circumstances arise the Seller or the Buyer (as the case may be) shall give to the other written notice thereof claiming the benefit of this clause and thereupon the other party shall be entitled to cancel the contract without penalty or other liability by giving written notice of cancellation within 21 days of receipt of the Seller's or Buyer's notice.

10. EXAMINATION OF GOODS

(a) The Buyer reserves the right to draw a representative sample of the goods at the place where the goods are to be unloaded for the purpose of laboratory examination of the goods to confirm that they comply with the quality standards set out in condition 3 or such other standards as may have been agreed in writing. If the Buyer is not satisfied as to compliance with quality standards it reserves the right to claim an allowance to make good the condition of the goods to the required quality standards where possible.

(b) Notwithstanding condition 11 the Buyer may within a reasonable time following delivery reject the goods or part thereof if the goods or that part are found to be not in accordance with the contract or the agreed quality standards or not to correspond with description or sample or not to be of merchantable quality.

(c) Upon rejection of the goods the Seller shall remove the goods from the premises to which they were delivered and refund the price to the Buyer together with all expenses directly or indirectly incurred by the Buyer in consequence of such rejection or removal. The Buyer shall not be obliged to order or accept replacement goods from the Seller.

11. OWNERSHIP AND RISK

Delivery shall be deemed to have taken place only when the goods are completely loaded on the road vehicle designated by the Buyer. Ownership and risk will pass to the Buyer on completion of delivery.

12. PAYMENT

Unless otherwise stated payment shall be made to the seller's address. The Buyer reserves the right to set off any amount owed by the Seller to the Buyer or its subsidiaries or associate companies at any time and without notice.

13. INDEMNITY

The Seller shall indemnify the Buyer against any claims expenses losses or liabilities of whatever nature howsoever arising directly or indirectly out of any defect in the goods or in connection with this contract or consequent upon the Seller's performing or failing to perform its obligations including (but without prejudice to the generality of the foregoing) claims expenses losses or liabilities of either party:

(a) pursuant to the Consumer Protection Act 1987.

(b) pursuant to any statute legislation or regulation concerning the sale offering for sale use marking labelling packaging or constitution of goods and

(c) resulting from infringements of any third party's rights or any loss or damage suffered by any third party.

And any loss or damage suffered by the Buyer or any of its employees or agents.

PROVIDED that such indemnity shall not extend to any claim expenses losses or liabilities incurred by the Buyer wholly and directly by reason of the Buyer's own negligence or default.

14. INSURANCE

The Seller shall maintain product liability insurance in respect of the goods with a limit of indemnity not less than £100,000 in respect of all claims arising out of any one occurrence or series of occurrences arising out of any one event. The Buyer may as a condition precedent of acceptance of the goods

require the production of evidence reasonably satisfactory to it of the existence and terms of such insurance.

15. REMEDIES

(a) The Buyer may by notice in writing to the Seller terminate any contract forthwith if:

(i) the Seller shall commit any breach of any of the terms (including without limitation terms concerning the time for delivery) of that or any other contract with the Buyer and on its part to be observed or performed PROVIDED that if such breach is remediable the Buyer has previously given to the Seller notice thereof and the same has not been remedied within 7 days thereafter.

(ii) being an individual the Seller shall have a bankruptcy order made against him;

(iii) being a company the Seller shall have an administrator appointed or enter into liquidation;

(iv) the Seller shall enter into a composition or voluntary arrangement with creditors or have a receiver appointed over any of its assets;

(v) the Seller purports to cancel this or any other contract with the Buyer (other than pursuant to a notice of force majeure given by the Buyer to the Seller pursuant to condition 9).

(b) The provisions of (a) above and the exercise by the Buyer of its rights there under are without prejudice to any other rights of the Buyer.

16. ASSIGNMENT AND SUB-CONTRACTING

The Seller shall not assign the benefit of any contract made with the Buyer nor sub-contract its obligations there under without the Buyer's written consent.

17. WHOLE AGREEMENT

The Buyer's written order together with these conditions shall constitute the whole agreement between the Buyer and the Seller and no term condition or warranty shall be implied by reason of any oral communication or any previous dealing between the parties.

18. ARBITRATION

Any dispute arising out of this contract (other than disputes relating to latent defects) shall be referred to arbitration in accordance with the Arbitration Rules of the Agricultural Industries Confederation Ltd and the National Farmers' Union. All such references to Arbitration must be made within twelve months of the date of this contract or delivery of the relevant goods if later. All parties, whether members of such organisation or not, shall by signing or accepting this contract be deemed to have knowledge of such Rules and to have elected to be bound thereby.

19. HEADINGS

The headings in these Conditions are for convenience only and shall not affect the construction thereof.

NOVEMBER 2001

