

GERMINAL IRELAND CONDITIONS OF SALE

The giving or sending of an order to us constitutes an acceptance of these terms by the Purchaser who, if it does not accept these terms must return the goods forthwith. If the Purchaser's order is inconsistent with these terms our acceptance of the Purchaser's order shall constitute a counteroffer and the Purchaser shall be deemed to have accepted these terms unless it notifies us to the contrary in writing within five days of receiving our acceptance of the order. The headings to the following clauses are provided for convenience only and shall not affect their constitution.

1. ACCEPTANCE OF ORDERS

- (a) No order shall be binding upon us unless accepted in writing.
- (b) The expression "Subject to availability from our usual sources" used in relation to these Conditions of Sale shall mean that all orders for home grown seeds are booked subject to the sale gathering of our home grown contracts and that all orders for seeds grown abroad are booked subject to the safe arrival and correct delivery of our relevant contracts.
- (c) Notwithstanding any other term contained in an Order or written acceptance thereof each delivery and assignment made by us in relation to such Order and acceptance shall be regarded for all purposes as constituting the subject matter of a separate Contract of Sale

2. PRICES

- (a) All prices quoted by us in catalogues and price lists are subject to withdrawal or alteration without notice.
- (b) If the goods which are the subject matter of the contract are shown to be of foreign origin we reserve the right to adjust the price payable by the Purchaser so as to reflect any alteration in the value of the pound sterling in terms of the currency of the country of origin of the goods between the date of sale and the date of presentation of documents. We also reserve the right to alter prices without notice in the event of the imposition of or increase in any tariff or import levy.
- (c) We reserve the right to alter prices without notice in the event that there is any increase in shipping, marine insurance, freight or landing charges between the time of sale and the arrival of any vessel by which the goods are being shipped.
- (d) The Purchaser shall be liable for and shall indemnify us against any loss resulting from unreasonable delay in the loading or discharge of vehicles if the delay is at the point of discharge or resulting from any other cause the fault of the Purchaser and the price shall be adjusted accordingly.
- (e) The price of any variety of seed which becomes the subject of a grant of plant breeder's rights under the Plant Varieties and Seeds Act 1964 will be adjusted to include the cost of any royalty payable to the owner of the rights. If, in the case of a variety which is already the subject of plant breeders rights there is a change in the rate of royalty payable to the owner of the rights the price will be adjusted accordingly.

3. DELIVERY

- (a) We shall endeavor to make delivery within the period stated on the fact of this Contract and the Purchaser shall accept delivery during this period.
- (b) The period stated however shall not form a term of the Contract and is an estimate only of the period within which delivery may be made in normal circumstances. We shall not be under any liability to the Purchaser in respect of loss howsoever arising caused by or resulting from our failure to deliver within this estimated period.

4. DELIVERY AND WEIGHTS

- (a) Ex-farm or ex-store sales
- (b) Delivery shall be made free on vehicles on hard road (or on rail if specified on the face of the Contract). The Purchaser undertakes to advise us in advance in intended times of collection. Where the purchaser collects unweighted grain he shall notify us of the net weight as quickly as possible
- (c) Sales on a delivered basis
- (d) We undertake to advise the Purchaser of all dispatches stating the hauler's name or railway wagon number and the number and gross or net weight of bags (if weighed) or approximate net weight (if in bulk). Advances should be available at the premises specified by the Purchaser on or before arrival of delivery vehicles at those premises. A receipt for the weight at the time of delivery shall if required be given to the driver of the vehicle

5. DAMAGE, DELAY OR LOSS IN TRANSIT

If goods are damaged in transit it is essential that the delivery sheets be signed "damaged in transit". No claim for damage can be entertained unless made in writing within three days of delivery of goods to the carriers and ourselves. In the case of non-delivery of any packages both the carriers and ourselves must be notified within fourteen days of despatch and the claim be made in writing within twenty eight days from the time of despatch.

6. RETURNS

Occasionally customers whose plans have been unexpectedly changed have asked us to take back seed already delivered to them. Whilst we are always pleased to give every possible help we regret that we cannot accept the return of seeds. We are certain customers will appreciate that we and they could not have confidence in our seeds if it were thought they might have been sent out to someone unknown to them and then returned to us before finally reaching them.

7. PASSING OF PROPERTY AND RISK

- (a) The property in seeds or other goods delivered against any order shall not pass to the Purchaser until we have received payment of all monies owing to us from the Purchaser whether for those or other goods to otherwise howsoever owing from the purchaser to us although the risk of loss destruction or damage to goods shall pass to the Purchaser on delivery and the Purchaser shall on our behalf (but at the Purchaser's own expense) insure to the full retail value all goods we have delivered and which are in the Purchaser's possession or under the Purchaser's control and the Purchaser as bailee and at the Purchaser's own expense will store such goods in a proper manner until the property therein passes to the Purchaser as aforesaid. If the Purchaser incorporates such seeds or other goods into other products (with the addition of its goods or the goods of others) or uses such goods as materials for other products (with or without such addition) the property in those other products is upon such incorporation or use ipso facto transferred to us and the Purchaser as bailee of such other products for us will store the same for us and insure the same as provided above.
- (b) In any of the following events where we have not received payment of all monies owing to us from the Purchaser we may require the Purchaser to return (and in default of its doing retake possession of) all or any of the seeds or other goods we have supplied under this Contract or any other contract between us or suspend further deliveries of goods under this or any other contract (including those outstanding under orders partly filled) or cancel all or any orders so far as any goods remain to be delivered thereunder (and in any of such events the full price of any goods delivered shall immediately become payable notwithstanding any previous arrangement to the contrary) namely as follows:-
 - (i) If the Purchaser fails to pay any amount due hereunder within two months after the due date, or
 - (ii) If the Purchaser is in default of any obligation on its part under the terms hereof or any other terms agreed between us covering any specific order or orders or goods supplied on a sale or return basis or
 - (iii) If the Purchaser shall resolve or propose to go into voluntary liquidation (other than for the purpose of amalgamation or reconstruction) of it the Purchaser being an individual dies or
 - (iv) If the presentation of a petition to wind up the Purchaser or the Purchaser's company shall be or appear to be threatened or contemplated or
 - (v) If an encumbrancer takes possession of or a receiver is appointed to the undertaking of the Purchaser or the Purchaser's company or any of the Purchaser's property or assets or if the Purchaser being an individual trader is adjudicated bankrupt or makes any scheme or arrangements with his creditors or
 - (vi) If any execution or distress shall be levied against the assets or property of the Purchaser or any part thereof or
 - (vii) If at any time we judge that the amount outstanding from the Purchaser on the general statement of account between the parties is in excess of the credit limit that we are willing to accord to the Purchaser.
- (c) Notwithstanding that we have not received payment of all monies outstanding from the Purchaser (and provided we shall not have exercised our rights under the preceding sub-clause of this Clause 5) we authorise the Purchaser in such circumstances to dispose of any seeds or other goods supplied hereunder in the ordinary course of the Purchaser's business for our account on the condition that the Purchaser has the fiduciary duty to us to account to us for the proceeds arising therefrom provided that the Purchaser can retain therefrom any excess of such proceeds over the amount outstanding under this or any other sale contract between us.

8. TERMS OF PAYMENT

- (a) Unless the contrary is stated on the invoice or a written agreement to the contrary exists all goods are said for payment net within one month of the date of invoice.
- (b) We reserve the right to demand payment of any account or invoice at any time regardless of the foregoing payment condition.

9. QUANTITY

Whilst it is our intention that all expressions of quantity and weight referred to in any Contract of Sale or invoice relating thereto shall be accurate owing to the nature of the product these shall be considered accurate to 5% either way of the stated quantity or weight. We can accept no liability for any variation in quantity or weight which falls within 5% of such stated quantity or weight

10. STANDARDS

- (a) Seeds sold by us (which are the subject of this Contract) are guaranteed to comply at the time of delivery with the Irish Seeds Regulations currently in force. All information whether contained in any catalogues, price lists, brochures, leaflets or other descriptive matter, or given by our staff and related to varieties, varietal characteristics or period of maturity or fitness for any particular purpose or otherwise relating to the performance of seeds is given for general guidance only but shall not form part of any order or any contract. (Variation in local or climatic conditions can render such information inaccurate). Purchasers are therefore advised that any such information given to them does not constitute a representation or warranty by us as to these matters and should not be relied on as such and any contract subject thereto shall not constitute a sale by description. Purchasers should satisfy themselves that any seeds which they order are of a variety and performance satisfactory for their requirements and order such seeds as their own risk.

- (b) Purchasers are advised that our staff have no authority to give more than general guidance as described above to Purchasers and we disclaim liability for any advice given or opinion expressed by them. Such advice is followed or such opinion acted upon entirely at the Purchaser's own risk.

11. LATENT DEFECT

- (a) Diseases of plants can be transmitted by the wind, by insects, by animals or by human agencies and may be seed borne or soil borne. We believe the seed hereby sold to be free from latent defects, but it is not a condition of sale nor do we warrant that any seed sold by us shall be free from such a defect and we shall not be responsible in any way for the resultant crop.
- (b) In particular and without prejudice to the generality of this paragraph, although every care is taken in the selection of seed, it is not a condition of sale nor does the seller warrant that the seed sold is free of loose smut and the seller will not accept liability whatsoever for any damage direct or consequential which the Purchaser might suffer as a result of the presence of loose smut in the seed sold.
- (c) Where specially treated or tested seed is offered our assurance is limited to the fact that the treatment or testing to the specification quoted has been carried out, beyond this assurance we cannot accept any liability. In the case of pelleted seed we rely on the expertise of the pelleter and can offer no guarantee beyond that which we receive from him

12. HYBRID VARIETIES

When seeds are described as "Hybrid" whether F1 double cross, or the like, plants grown from them cannot be relied upon to produce seeds which will yield crops of the same characteristics and in many cases a complete breakdown in the strain will occur. Growers should therefore be warned not to attempt to save seed from the produce of "Hybrid" varieties.

13. ANALYSIS AND TREATMENTS

- (a) Where seeds have been treated with a liquid or powder to control pests or diseases, or have been fumigated or pelleted the purity and germination percentages may be based on tests made before treatment.
- (b) Where seeds of any Beta species have been rubbed the purity and germination percentages may be based on tests made before the treatment.
- (c) In the case of celery seeds unless otherwise specifically states celery seeds have not been treated for Celery Leaf Spot (Septoria spp)

14. PRODUCTION OF SEED CROPS

All seeds with the exception of Cereal seeds are offered and sold for the production of consumer goods and not for the reproduction of seed except in contacts where this is expressly stated. No responsibility whatsoever can be accepted for any seed crop produced.

15. BAGS

Unless otherwise stated all bags used by us for the package of seeds are non-returnable and no credit will be allowed for any such bags which are returned to us.

16. FORCE MAJEURE

Shall not be responsible for delay in the delivery of the goods or any part thereof occasioned by any Act of God, action by any Government strike, lock out, combination of workmen, riot or civil commotion, breakdown of machinery, power failure, fire, failure of crop, fuel shortage, loss and/or detention at sea, or any other contingency beyond our control provided that notice in writing, by telegram or telex is given to reach the Purchaser within seven days of our obtaining knowledge of the occurrence (in case of resale such information shall be passed on without delay). Should any of the goods be rendered unfit for delivery by reason of any of the above acts the Contract so far as it relates to those goods shall be deemed to be discharged.

17. PROHIBITION OF EXPORTS

All seed varieties are sold on the understanding that they will be sown in Ireland and will not be resold for export without prior written permission of ourselves. If the variety is bred by us or of the Breeder or the Irish Breeders Agent if the Breeder is other than ourselves. The Purchaser hereby agrees to indemnify us against all costs, claims and liabilities which may accrue to us as a result of a breach of Clause.

18. COMPLAINTS

No complaint under the terms of the above Conditions of Sale can be considered unless clear proof can be given that the seed grown and alleged to have performed unsatisfactorily was in fact the seed supplied by us and that it was sown on suitably prepared ground, treated carefully and correctly throughout and subject only to such conditions as were likely to produce a favourable crop.

19. LIMITATION OF LIABILITY

In the event of any seeds sold or agreed to be sold by us not complying with the express terms of the contract of sale subject to these Conditions or any seeds proving defective in varietal purity we will at our option replace the defective seeds free of charge to the Purchaser or will refund a payment made to us by the Purchaser in respect of the defective seed and this shall be the limit of our obligation. We hereby exclude (so far as we are able by law) all liability for any loss or damage arising from the use of any seeds supplied by us for any consequential loss or damage arising out of such failure in the performance of or any defect in the seeds supplied by us or for any other loss or damage whatsoever save for at our option liability for such replacement or refund as aforesaid. In accordance with the established custom of the seed trade any express or implied conditions statement or warranty, statutory or otherwise not stated in these Conditions is hereby excluded. The price of any seeds sold or offered for sale is based upon the foregoing limitations upon our liability. The price of such seeds would be much greater if a more extensive liability were required to be undertaken by us and in the event that the Purchaser requires us to assume such liability, it should ask us to quote a price accordingly.