



## **L.B Hayes Ltd (Cropwatch) (“the Seller”)**

### **Standard conditions of sale**

#### **1. PRICES**

The price payable for the goods is subject to alteration at the Seller’s option by notice to the Buyer at any time before delivery.

#### **2. PAYMENT**

2.1 Unless otherwise agreed in writing, payment is due 30 days following delivery and shall be due by the date shown on the invoice.

2.2 Interest at 1% per month will be charged on all monies outstanding after the relevant due date and the Buyer shall in addition pay to the Seller all legal and other fees, costs and expenses incurred by the Seller in connection with the collection by the Seller of any payment not made by the due date.

2.3 If full payment of both the invoice and the interest charges has still not been made within 3 months of the invoice date, then the Seller will commence court proceedings to recover the debt.

#### **3. ACCEPTANCE AND CANCELLATION OF ORDER**

3.1 Placing an order to purchase constitutes an acceptance of these terms by the Buyer who, if not accepting these terms must notify the Seller immediately.

3.2 Orders accepted by the Seller may only be cancelled in writing by the Buyer with the Seller’s prior consent.

#### **4. DELIVERY**

Delivery of the goods shall be made by the Seller delivering the goods to the address specified by the Buyer, or failing which, specified by the Seller’s delivery note, or if otherwise agreed, by the Buyer collecting the goods at the Seller’s premises. Any delivery date/dates or time which may be quoted verbally or in writing are estimates only. The Seller shall not be liable for the failure to deliver the goods by such date or time, or for any damage or loss arising directly or indirectly out of delay in delivery. The Buyer or a representative for the Buyer should be available to accept the delivery and sign for the receipt of the goods, Should the Buyer not be present to sign for the relevant delivery documentation this is at the Buyers own risk and the Seller shall be discharged from all liability in respect of loss or damage to the goods.

#### **5. RETURN OF GOODS**

The goods may be returned to the Seller at the Buyer’s cost within 3 months of the delivery date but only with the Seller’s prior written agreement and at the Seller’s sole discretion. In addition to any other conditions, which the Seller may at its discretion impose, any return will be subject to a handling charge of 10% of the invoiced price. Under no circumstances will the Seller agree to a return of the goods unless the shelf life is sufficient to enable the Seller to resell the goods.

## **6. WARRANTY**

The Seller warrants that any seed sold will

- comply with the applicable UK Seeds Regulations currently in force
- be of the variety ordered by the Buyer and confirmed by the Seller

If the Seller is in breach of either of these warranties, the Seller will at its option exchange the defective seed free of charge to the Buyer or will refund all payments made by the Buyer in respect of the defective seed and this shall be the Seller's sole liability and the Buyer's sole remedy for such breach

## **7. SPECIAL TREATMENTS**

Where at the Buyer's request any treatment whether chemical or otherwise is supplied to the seed, the Seller shall carry out such treatment in the correct manner and/or in accordance with the instructions given by the manufacturer of the chemical in question and the Seller accepts no responsibility whatsoever for the effectiveness of such treatment or any loss or damage direct or consequential which may result therefrom.

## **8. FORCE MAJEURE**

Neither the Buyer nor the Seller shall be responsible for the delay in delivery of goods or any part thereof occasioned by the act of God, action by any government, strike, lockout, combination of workmen, breakdown of machinery, power failure, or fire, provided that the party invoking this clause dispatches written notice to the other party either within 7 consecutive days of their knowledge or before the date of delivery, whichever is the later. If delivery is delayed by more than 30 consecutive days from the expected date of delivery, the party invoking this clause will have the option of cancelling the delayed portion of the contract, if not already in transit, by giving the other party written notice to that effect, but shall not be entitled to any compensation. A further extension of delivery of 30 days may be mutually agreed if requested by the party invoking force majeure. If delivery under this clause is prevented during this extension, the contract or any unfulfilled part thereof shall be cancelled. Neither party shall have a claim against the other for delay or non-fulfilment under this clause, provided that the party invoking this clause shall have supplied to the other party, if required, satisfactory evidence justifying the delay or non-fulfilment.

## **9. DEFAULT**

Without prejudice to any other rights available to it the Seller shall have the right to terminate all or any contract between the parties or to suspend delivery or orders if:-

- The Buyer fails to pay any monies owing by the invoice due date
- The Buyer commits any breach of contract
- The Buyer goes into liquidation or administration or has a receiver appointed or commits any act of insolvency or bankruptcy
- The Seller has any reason to doubt the credit-worthiness of the Buyer

## **10. FARM SAVED SEED**

The Buyer shall ensure that the Buyer complies fully with all legal obligations in relation to the BSPB Licences and in relation to Farm Saved Seed including obligations to provide all relevant information upon request by or on behalf of the holder of the relevant Plant Breeders Rights. These legal obligations are set out in various placed including Council Regulations (EC) No. 2100/94: Commission Regulation (EC) No. 1768-95: the UK Plant Varieties Act 1997 and the regulation and implementing rules granted under the Act, together with any subsequent amendments which relates to these various Acts. Where varieties are protected by Plant Breeders Rights and where product from this seed is further sown as farm saved seed in accordance with the Regulations the grower is legally obliged to pay equitable remuneration due for its use.

Where the sale relates to a hybrid then no further seed production as farm saved seed or other can be taken from the seed supplied without the consent of the holder of rights of that variety.

## **11. LATENT DEFECT**

Seed is a biological living organism and its growth and performance is influenced by many outside factors beyond the control of the Seller. Disease of plants can be transmitted by wind, insects and maybe seed or soil borne. The Seller believes the seed to be sold is free from latent defect, but is not a condition of sale nor does the Seller warrant that any seed sold shall be free from such defect and will not responsible in any way for any resultant crop or other losses.

## **12. RETENTION OF TITLE**

12.1 Until paid for in full, title of all goods supplied by the Seller remain the Seller's property.

12.2 Risk passes to the Buyer upon delivery.

12.3 Until full payment has been made to the Seller, the Buyer shall store the goods on a guardian basis, and shall store the goods so they are clearly identifiable as being the property of the Seller, ensuring they are insured against all risks.

12.4 The Buyer has a right to use the goods in the ordinary way of business.

12.5 In the event of the Buyer entering into liquidation, becoming subject to an administration order, entering bankruptcy, or having a bankruptcy petition made against the Buyer then the right to use the goods as in the above sub clause 4, shall cease and the Seller shall have the right to enter the Buyers premises and retake possession of the goods.

## **13. LIMITATION OF LIABILITY**

13.1 The Seller shall be under no liability for:-

- any loss or damage arising from the use of any seed, chemical or fertiliser supplied
- any failure in the performance of any latent defect in any seeds supplied including, without limitation, any failure whether total or partial of the resultant crop since such failure can depend on so many natural factors and other factors beyond the control of the Seller
- any loss of profit, loss of revenue, or loss of business
- Indirect or consequential losses or damage

13.2 Goods supplied may consist of regulated chemicals, materials or substances that are dangerous or hazardous. It shall be the Buyer's responsibility to observe any instructions for use

13.3 The Seller may offer advice to the Buyer about its products and services. The Buyer agrees that such advice is given in good faith without any liability on the part of the Seller.

#### **14. CLAIMS**

All purported claims by the Buyer under the terms of these conditions of sale will not be considered unless clear written proof can be given that the seed grown and alleged to have performed unsatisfactorily was the seed supplied and that it was sown in suitably prepared ground, treated correctly throughout and subject only to such conditions as were likely to produce a favourable crop. The burden of proof shall be on the Buyer to establish any defect in the seed supplied. All claims based on defects of quantity, quality or condition regarding any other goods that ought to be apparent upon reasonable examination of the goods on delivery must be notified to the Seller immediately by written communication. Documentary evidence of all such claims must be sent to the Seller within 7 days of the actual date of delivery.