



General Terms and Conditions of Sale

YOUR ATTENTION IS PARTICULARLY DRAWN TO PARAGRAPH 7 REGARDING USE OF SEEDS AND PARAGRAPH 8 WHICH LIMITS TOZER'S LIABILITY.

TRADE ONLY: TOZER DOES NOT OFFER SEEDS FOR SALE TO CONSUMERS

1 Definitions

1.1 'Business Day' means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

1.2 'Contract' has the meaning set out in paragraph 2.1.

1.3 'Deliverable Location' shall be a place whose driving surface is metalled or of sufficient strength to bear the location, movement and turning of a Transport Vehicle and which location can be lawfully and safely accessed (within a reasonable time) by the said Transport Vehicle, at which offloading may safely take place and after which the said Transport Vehicle may egress safely within a reasonable time.

1.4 'Force Majeure Event' means an event beyond the reasonable control of Tozer including, but not limited to; strikes, lock-outs or other industrial disputes (whether involving the workforce of Tozer or any other party), failure of a utility service or transport network, medical emergency, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, inclement weather or default of suppliers or subcontractors.

1.5 'General Description' has the meaning given to it in paragraph 2.4

1.6 'GM free' shall mean that the seeds supplied are not genetically modified. See paragraph 7.6 for further detail.

1.7 'Order' has the meaning set out in paragraph 2.1

1.8 'Order Confirmation' has the meaning given to it in paragraph 2.1

1.9 'Order Form' means an order sheet containing details of your order.

1.10 'Price' the price of the Seeds and delivery (if applicable) calculated in accordance with paragraph 3.1.

1.11 'Seeds' means the seeds offered for sale by Tozer which is accepted in accordance with paragraph 2.1.

1.12 'Tozer' means Tozer Seeds Limited, a company registered in England and Wales with company number 03627633 and whose registered office is at Pyports, Downside Bridge Road, Cobham, Surrey KT11 3EH.

1.13 'Transport Vehicle' means a transport vehicle whose mass does not exceed 18 tonnes unladen.

1.14 In these terms, the above definitions and those throughout these terms apply and

(a) References to a person include a natural person, corporate or unincorporated body (whether or not having separate legal personality), (b) Any reference to a party includes the personal representatives, successors or permitted assignsof that party, (c) Any reference to a statute or a statutory provision is a reference to that statute or statutory provision as amended or re-enacted.(d) Any reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted, (e) Any phrase introduced by the terms including, 'include,' 'in particular' or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.15 Save as may be agreed in writing by a Director of Tozer, no servant, employee or agent of Tozer is permitted to alter or vary these General Terms and Conditions of Sale in any way.

2 Orders and Contract Formation

2.1 You may place an order for Seeds by speaking to a member of the Tozer sales team in person or by phone, who will then complete an Order Form for you, or by faxing, posting or emailing your completed order to Tozer in each case for Tozer's acceptance (Order). Tozer will accept your Order in writing or by email by issuing you with an Order Confirmation. Once an order is confirmed by us then a contract will be in place between us upon the terms as set out in the Order Confirmation and these terms and any other document expressly stated in writing by Tozer to form part of the arrangement between Tozer and you. Any quotation given by Tozer shall not constitute an offer and is only valid (subject to prior revocation by Tozer acting in its sole discretion) for a period of 20 Business Days from its date of issue.

2.2 In the event of any conflict or inconsistency between the terms of the Order Confirmation and these terms then the Order Confirmation shall prevail over these terms.

2.3 The Contract constitutes the entire agreement between the parties in relation to its subject matter. The Contract therefore applies to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 Any: (a) samples, (b) drawings, (c) descriptive matter, (d) advertising, (e) illustrations, (f) information contained in Tozer's catalogues, brochures and/or on www.tozerseeds.com, (e) given by Tozer's staff in respect of the Seeds in each case including in respect of the performance and/or yield of the Seeds including varieties, varietal characteristics, periods of maturity, fitness for any particular purpose, germination figures (General Descriptions) are given for the sole purpose of general guidance only, because that information may not be accurate. In particular variations in local or climatic conditions can render that information inaccurate. As a consequence, those General Descriptions shall not form part of the Contract or any other contract between Tozer and you for the supply of the Seed and they are excluded from the Contract. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of Tozer, including any General Descriptions which are not set out in the Contract.

3 Price

3.1 Unless otherwise agreed in writing by Tozer, the price for the Seeds is that set out on Tozer's standard price list which is available on request. This price includes containers in which the Seeds are delivered and Standard delivery to a UK address for orders of £1000 or over. There may be a delivery charge for orders of £999 or less and for orders for delivery outside the UK, these charges will be notified to you before Tozer accepts your order.

3.2 We may change the prices set out in our standard price list at any time. We may have to increase the Price after Tozer accepts your Order if: (a) our costs unavoidably increase, (b) the cost of delivering to you increases, (c) if the Seeds are or any treatment is sourced by Tozer from outside the UK and between the time when Tozer accepts your Order and Tozer purchases the relevant products the applicable currency fluctuates resulting in an increase cost to Tozer, (d) any new or increased tariff or levy applies to Tozer in respect of the Seeds, and/or (e) if Tozer has made a genuine mistake in its pricing.

4 Minimum Order Value

4.1 Orders placed are subject to a minimum value of £1000

5 Payment

5.1 Unless otherwise agreed in writing by Tozer, you shall pay the Price plus any VAT or other applicable taxes or duties chargeable at the applicable rate by bank transfer to the bank account nominated by Tozer in writing, or by cheque. Unless otherwise agreed in writing by Tozer, Tozer shall not process your order until it has received the Price in cleared funds.

5.2 Tozer may offer credit terms at its absolute discretion. Credit terms shall only be valid if agreed by Tozer in writing. Tozer may conduct credit referencing and other checks on you. If Tozer has agreed credit terms with you, you shall pay the Price plus any VAT or other applicable taxes or duties chargeable at the applicable rate by bank transfer to the bank account nominated by Tozer, or by cheque within the period of credit agreed by Tozer in writing, from and including the date of the invoice or within 30

days of the invoice if none is agreed. Credit terms offered by Tozer may be withdrawn by Tozer in its absolute discretion at any time and the balance outstanding shall become due immediately on demand.

5.3 You shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and in the currency set out in the Order Confirmation only. You shall not be entitled to assert any credit, set-off or counterclaim against Tozer in order to justify withholding payment of those amounts due in whole or in part. Tozer may, without limiting its other rights or remedies, set off any amount owing to it by you against any amount payable by Tozer to you.

6 Failure to Pay

6.1 Without prejudice to any other right or remedy that it may have, if you fail to pay Tozer on the due date, Tozer may: (a) Claim interest and compensation under the Late Payment of Commercial Debts (Interest) Act 1998, (b) with immediate effect, suspend the provision of Seeds until Tozer has received all overdue sums in cleared funds, (c) suspend further performance under the Contract without liability to you whether in contract, tort (including negligence), breach of statutory duty or otherwise, and/or (d) exercise a lien over any of your property in our possession.

7 Quality

7.1 Tozer shall have the right to make any changes to the Seeds which (a) are necessary to comply with any applicable law or safety requirement, or (b) do not materially affect the nature or quality of the Seeds.

7.2 Tozer warrants that the Seeds, on delivery, shall comply with the Seed Marketing Regulations 2011 (as amended).

7.3 Tozer confirms that, where, at your request, any treatment (of whatever description) is applied to the Seed ('the Treatment'), Tozer shall use its reasonable endeavours to ensure that the Treatment is carried out with reasonable skill and care and in accordance with the instructions of the manufacturer or supplier of the Treatment. Tozer does not advise on treatment, and consequently accepts no responsibility whatsoever for the effectiveness or otherwise of any Treatment.

7.4 Where, at your request, any treatment or similar authorised as a Horticultural Development Company Extension of Authorisation for Minor Uses (EAMU) is applied to the Seed, subject to paragraph 7.5, Tozer accepts no liability whether in contract, tort (including negligence), breach of statutory duty or otherwise for any direct or indirect consequence of that treatment and, subject to paragraph 7.5, that treatment is entirely at your risk. You shall provide to Tozer, on request, a copy of the relevant EAMU.

7.5 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 the treatment.

7.6 Seeds supplied by Tozer which are specified to be GM free are warranted to be GM free. However, this warranty does not extend to any material accompanying the Seeds by way of non-propagating contaminant (howsoever that contamination may arise). Furthermore, the customer agrees that the Seeds shall not be rejected and that no complaint or claim may be made by it in relation to the Seeds, either to Tozer or to any other person which is based wholly or partly upon any test carried out on the Seeds or a sample thereof at any time by, by the order of or on behalf of the customer, so as to test the genetic makeup of the Seeds unless (i) the test includes within it at least one test for an event or events as approved by ISAAA and appearing on its GM crop list specific to the crop in question, (ii) if and insofar as the test involves a PCR process that the number of cycles is no more than 40 in number and (iii) the sample and measuring or testing equipment has been prepared in accordance with good testing laboratory practice. Specifically, no test for the CaMV 35s promoter, the NOS terminator or AgroBorder II shall be conclusive that the Seeds are not GM free and shall not of their own entitle the customer to reject the Seeds, complain or make any claim either to Tozer or to any other person in relation thereto.

8 Use of Seeds

YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS PARAGRAPH

8.1 The Seeds sold by Tozer are not edible and must not be eaten directly by humans. The Seeds are also not suitable for sprouting and must not be used for the production of sprouted seeds when seed,

or at least part of the seed, will be eaten as part of the final product.

8.2 No warranty is given that the seeds are free from all or any other matter which may be present at the premises, property or equipment of Tozer's suppliers, delivery agents or hauliers.

9 Exclusion and Limitation of Liability and Time Limit for Claims

YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS PARAGRAPH

9.1 Nothing in the Contract shall limit or exclude either party's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors, (b) fraud or fraudulent misrepresentation, (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 or section 12 of the Sale of Goods Act 1979, or (d) any other liability that cannot be lawfully limited or excluded.

9.2 Subject to paragraph 9.1, the only warranties given by Tozer under the Contract are those set out at paragraph 7 above. All other warranties, conditions and other terms implied by statute or common law in your favour are, to the fullest extent permitted by law, excluded from the Contract.

9.3 Subject to paragraphs 9.1 and 9.2, if Tozer breaches any of the warranties set out in paragraph 7 above, you may apply to Tozer for a refund of the price you paid for the Seed or alternatively at your option Tozer will provide you with a replacement free of charge of the Seed, in each case provided you have complied with paragraph 10.1 (if applicable), given Tozer a reasonable opportunity of examining the Seed, and if asked to do so by Tozer you return the Seeds to Tozer at your cost.

9.4 Subject to paragraphs 9.1, 9.2 and 9.3, Tozer shall not be liable to you or any person claiming through you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit (whether that or any loss of profit is direct, indirect, consequential and/or special), or for any indirect, special or consequential loss arising under or in connection with the Contract or any collateral contract.

9.5 Subject to paragraphs 9.1, 9.2 and 9.3 Tozer shall not be liable to you or any person claiming through you, whether in contract, tort (including negligence), breach of statutory duty or otherwise: (a) for any failure in the performance of or any defect in any Seed supplied, including total or partial failure of the resultant crop, (b) for any General Description, (c) for the or any consequence of the treatment of Seed with EAMU authorised applications where that treatment is made at your request, (d) for Seed containing genetically modified material, (e) for any Seed which was, at your request, not treated, (f) as a result of the failure of the Seeds to comply with any import requirements, (g) because you failed to follow Tozer's written instructions as to the storage, use of the Seeds or (if there are none) good practice regarding the same, (h) as a result of Tozer following any specification supplied or requested by you or (i) the Seed differs from the specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

9.6 Subject to paragraph 9.1, in any event, Tozer's total liability to you in respect of all losses arising under or in connection with the Contract or any collateral contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the sum £100,000 or an amount equivalent to 150% of the Price applicable under the Contract, whichever is the lesser.

9.7 You acknowledge that:

(a) The Price of Tozer's seeds is based upon the foregoing limitations and exclusion of Tozer's liability and that the price Tozer would have to charge would be much greater if a more extensive liability was adopted, (b) disease of plants can be transmitted by the wind, by insects, by animals or by human agencies and may be seed borne or soil borne, (c) you are better placed than Tozer to understand the exportation and importation rules and requirements in relation to the Seeds, (d) you are better placed to insure against your risks than Tozer, and therefore you agree that the limitation of Tozer's liability set out in the Contract is fair and reasonable.

9.8 If you wish to arrange a lower level of risk in relation to any Order, then you should notify Tozer in advance of placing your Order, Tozer may offer a variation, but is under no obligation to make any offer, and any variation may incur an additional charge.

9.9 Without prejudice to any exclusion or limitation of liability contained in the Contract, and subject to

any legal restriction on excluding or limiting liability, any claim made against Tozer by you must be notified to Tozer in writing within 12 months of the occurrence of the issue giving rise to the claim in question, failing which all liability whether in contract, tort (including negligence), breach of statutory duty or otherwise of Tozer is excluded.

9.10 These Terms shall apply to any replacement Seeds supplied by Tozer pursuant to paragraph 9.3.

10 Your Obligations

10.1 The Seeds are offered and sold for the production of crops only and not for reproduction of seed. You agree that you shall not use the Seeds for reproduction of seed in contravention of the plant breeders' rights within the meaning of the Plant Varieties Act 1997 nor shall you use the Seed for breeding (other than for seed crop) or for seed multiplication.

10.2 If you are purchasing from outside the UK, you shall specify in writing on the Order, the precise specification which is acceptable to the importing authority in your territory, including details of phytosanitary requirements, international certification, importation documents, import licences, invoice details, disease and virus specification and you are entirely responsible for this. You are responsible for the exportation from the UK and importation to your territory of the Seeds. Tozer warrants that it shall use reasonable endeavours to comply with the phytosanitary requirements notified to it. Tozer shall have no obligation in respect of the production of export or import licences or other documentation required by the country of destination or any countries the Seed delivery may pass through.

11 Delivery and Inspection

11.1 This paragraph 11 shall apply in relation to all deliveries organised by Tozer, whether for domestic or international delivery. In the event that you elect to collect the Seeds from Tozer or arrange your own collection and delivery of the Seeds, save as in relation to paragraphs 11.2, 11.5, 11.10, 11.11, 11.12 and 11.13, the remaining provisions of this paragraph 11 shall not apply and are hereby excluded.

11.2 Tozer may deliver the Seeds by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment or contract.

11.3 For delivery in the UK, if the requested seed is available, Tozer shall use reasonable endeavours to deliver Orders where standard delivery has been requested within seven Business Days unless a particular delivery date is specified by the customer in the Order, in which case, provided it is at least seven Business Days from acceptance of the Order by Tozer in accordance with paragraph 2.1, Tozer shall use reasonable endeavours to deliver on this date.

11.4 For delivery outside the UK, Tozer may provide estimated delivery dates and shall use reasonable endeavours to deliver the Seeds within a reasonable time of the estimated delivery dates but you acknowledge that, in international deliveries, there are many factors outside Tozer's control which could delay the delivery of the Seeds and therefore Tozer accepts no liability whether in contract, tort (including negligence), breach of statutory duty or otherwise for late delivery on international deliveries.

11.5 Notwithstanding any other paragraph to the contrary in the Contract, time shall not be of the essence for the Contract, including the time delivery of the Seed.

11.6 Tozer shall deliver the Seeds to the location set out in the Order Confirmation or any other location as the parties may agree in writing (the Delivery Location) in accordance with paragraph 11.3 or 11.4 (as applicable). Any location must be capable of delivery by a vehicle of up to 7.5 ton capacity.

11.7 In the UK delivery of the Seeds by Tozer shall be completed on the Seeds' arrival at the Delivery Location (Delivery) when unloaded. Delivery will only be effected at a Deliverable Location and if and in the event that the Delivery Location is not a Deliverable Location then Tozer shall not be obliged to deliver the Seeds to the Delivery Location but shall be entitled to its reasonable costs in attempting to do so.

11.8 If Tozer fails to deliver the Seeds, its liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the Price.

11.9 If You fail to take or delay in taking delivery of the Seeds at Delivery, then, except where that failure or delay is caused by Tozer's failure to comply with its obligations under the Contract: (a) delivery of the Goods shall be deemed to have been completed at 9.00am on the 3rd Business Day after the day on which Tozer attempted to make the Delivery, and (b) Tozer shall store the Seeds until you take delivery, and charge you for all related costs and expenses (including insurance). If, 10 Business Days after the day on which Tozer first attempted to make delivery, you have not taken delivery of them, Tozer may resell or otherwise dispose of part or all of the Seeds and, after deducting reasonable storage, insurance and selling costs and any other related costs or expenses, account to you for any excess over the Price or charge you for any shortfall below the Price.

11.10 You shall not be entitled to reject the Seeds if Tozer delivers up to and including 10% more or less than the quantity of Seeds ordered.

11.11 You shall inspect the Seeds on Delivery and you will be deemed to have done so and you shall advise Tozer immediately and in any event within 24 hours of delivery of any loss or damage to the Seeds in transit. That notification shall be made by telephone to Tozer Customer Services on 01932 862059 and confirmed in writing to sales@tozerseeds.com or Pypports, Downside Bridge Road, Cobham, Surrey, KT11 3EH within 48 hours.

11.12 In the event that you elect to collect the Seeds from Tozer or elect to arrange your own delivery of the Seeds, whether within the UK or outside the UK, you will notify Tozer in writing within the Order Form, and Tozer will then provide estimated availability dates and shall use reasonable endeavours to ensure the Seeds are available for collection within a reasonable time of the estimated availability dates.

11.13 In the event that you elect to collect the Seeds from Tozer or elect to arrange your own delivery of the Seeds, whether within the UK or outside the UK and you fail to collect the Seeds in accordance with paragraph 11.12, the provisions of paragraph 11.9 shall apply to that failure to collect and shall be adapted to refer to collection accordingly.

12 Termination

12.1 Without limiting its other rights or remedies, Tozer may terminate the Contract with immediate effect by giving written notice to you if: (a) You fail to pay any amount due under the Contract on the due date for payment. (b) You commit a material breach of the Contract and, in the event that that breach is remediable, you fail to remedy that breach within 10 Business Days of being notified in writing of the breach. (c) You suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or (being a company) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) have any partner to whom any of the foregoing apply. (d) You commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors (e) A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of you (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of you with one or more other companies or the solvent reconstruction of you. (f) You (being an individual) are the subject of a bankruptcy petition or order. (g) A creditor or encumbrancer of you attaches or takes possession of, or a distress, execution, sequestration or other like process is levied or enforced on or sued against, the whole or any part of your assets and that attachment or process is not discharged within 10 Business Days. (h) An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you (being a company). (i) A floating charge holder over your assets (being a company) has become entitled to appoint or has appointed an administrative receiver. (j) A person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets. (k) Any event occurs or proceeding is taken with respect to you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in paragraph 12.1 (c) to (j) (inclusive) (l) you suspend or cease, or threaten to suspend or cease, to carry on all or a substantial part of your business (m) You (being an individual) die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or become a patient under any mental health legislation.

12.2 Without limiting its other rights or remedies, Tozer shall have the right to suspend performance of the Contract or any other contract between you and Tozer if you become subject to any of the events listed in paragraph 12.1(c) to (j) (inclusive) or Tozer reasonably believes that you are about to become subject to any of them, or if you fail to pay any amount due under the Contract on the due date for payment (each a Trigger), or if you breach any term of the Contract. The suspension shall cease when, in Tozer's reasonable opinion, the Trigger no longer exists.

13 Consequences of Termination

13.1 On termination of the Contract for any reason you shall immediately pay to Tozer all of Tozer's outstanding unpaid invoices and interest and, in respect of Seeds supplied but for which no invoice has been submitted, Tozer shall submit an invoice, which shall be payable by you immediately on receipt and the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry, and Paragraphs which expressly or by implication have effect after termination shall continue in full force and effect.

14 Returns

14.1 Without prejudice to paragraph 7 and subject to paragraph 14.2, Tozer may, at its absolute discretion, accept the return of Seeds where it has given its express, written permission in advance. Returns are subject to a handling charge which will be notified to you when you seek a return. The Seeds returned must be in the original packaging with the seals unbroken and intact and be in undamaged and resalable condition. Returns must be delivered to Tozer within 20 Business Days of receipt of the Seeds by you. All Seeds returned will be for credit the equivalent of the Price less the handling charge, no cash refunds are given under any circumstances.

14.2 Without prejudice to paragraph 7, Seeds which are not listed in the Tozer catalogue cannot be returned.

15 Risk and Title

15.1 For deliveries both inside the UK and outside the UK, the risk in the Seeds shall pass to you either: (a) On delivery, when delivery has been arranged by Tozer; or (b) On collection, when collection from Tozer and delivery to you has been arranged by you.

15.2 Legal and beneficial title to the Goods shall not pass to you until Tozer has received payment in full (in cash or cleared funds) for: (a) the Seed; and (b) any other goods and/or seed that Tozer has supplied to you in respect of which payment has become due.

15.3 Notwithstanding any other provision in the Contract, you shall pay the Price in accordance with the Contract and Tozer shall be entitled to maintain an action for the Price in accordance with the Contract.

16 Retention of title

16.1 Until the date on which legal and beneficial title to the Seeds pass to you in accordance with paragraph 14, Tozer shall retain the legal and beneficial title to the Seeds and you shall: (a) insure the Seeds for their full replacement value with a reputable insurance company and, when requested by Tozer in writing, ensure Tozer's interest in the Seeds is noted on the policy, (b) if the Seeds are destroyed by an insured risk, hold the insurance proceeds separately from all other monies on trust for Tozer, (c) hold the Seeds on a fiduciary basis as Tozer's bailee, (d) store the Seeds at your own cost separately from other property and in a way so as to ensure that the Seeds remain readily identifiable as Tozer's property, (e) not remove, destroy, deface or obscure any identifying mark or packaging on or relating to the Seeds, (f) ensure that the Seeds remain in satisfactory condition, (g) not sell or purport to sell the Seeds to a third party, (h) not plant the Seeds or otherwise cause them to be unsalable as seeds, (i) not create or purport to create any lien, charge or other encumbrance over or otherwise affecting the Seed, (j) notify Tozer immediately if you become subject to any of the events listed in paragraph 12.1(c) to 12.1(j) (inclusive), (k) immediately provide Tozer with any information relating to the Seed as Tozer may require from time to time, (l) notwithstanding paragraphs 16.1(g) and 16.1(h) hold as trustee for Tozer any proceeds of sale of the Seeds or the crop (as applicable) to the level

of sums owed to Tozer in a trust account separate from other monies.

16.2 Tozer may trace the proceeds of any sale or purported sale of the Seeds or the crop (as applicable) that you receive into any bank or other account which you maintain.

16.3 Tozer may, where title to the Seeds remains with Tozer, recover and resell the Seeds, and you hereby grant to Tozer an irrevocable licence to enter any premises owned and/or controlled by you in order to for Tozer to exercise its rights pursuant to this paragraph 16.3.

17. Arbitration

17.1 Without prejudice to paragraph 20.11, any dispute arising under or in connection with the Contract shall be referred to arbitration in accordance with the arbitration rules of the British Society of Plant Breeders Limited current at the date of referral. Copies of the arbitration rules can be obtained from British Society of Plant Breeders Limited. Woolpack Chambers, 16 Market Street, Ely, Cambridgeshire, CB7 4ND.

18 Confidentiality

18.1 You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes, information, pricing or documentation which are of a confidential nature and have been disclosed to you by Tozer, its employees, agents or subcontractors, and any other confidential information concerning Tozer's business or its products or its services which you may obtain and shall only use the same for the purposes of the Contract. You shall restrict disclosure of that confidential information to those of your employees, agents or subcontractors as need to know it for the purpose of discharging your obligations under the Contract, and shall ensure that those employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind you under the Contract.

19 Intellectual Property

19.1 All intellectual property rights owned and/or controlled by Tozer in relation to its name, branding, marketing and advertising materials and the Seeds including, without limitation, the genetics in the Seeds and their varieties, are and shall remain at all times owned and/or controlled by Tozer and are not assigned to you or licensed to you in any way.

19.2 In the event that you request that Tozer apply a Treatment or otherwise alter the Seeds in anyway, you hereby warrant that the Treatment or other alterations will not infringe the intellectual property rights of any third party or that you have obtained, where relevant, and hold all necessary authorisations and permissions from any third party intellectual property rights owners or other rights owner to allow and permit Tozer to treat or otherwise alter the Seeds in the manner requested by you.

19.3 You will indemnify Tozer from any and all losses and damages whether arising in contract, tort (including negligence), breach of statutory duty or otherwise for which Tozer is and/or becomes liable to any third party as a result of or in connection with any third party claim, that the Treatment or other alteration of the Seeds requested by you and carried out by Tozer on your behalf, infringes the intellectual property rights or other rights that belong to or are alleged to belong to a third party.

20 General

20.1 Tozer shall not be liable to you as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event and in the event of a Force Majeure Event it shall have a reasonable extension of time, during and after the Force Majeure Event to comply with its obligations. If a Force Majeure Event lasts for more than 30 days either party may terminate the Contract on 10 Business Days' notice.

20.2 Tozer may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent. You shall not, without the prior written consent of Tozer, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under the Contract.

20.3 Any notice or other communication required to be given to a party under or in connection with the

Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, to its registered office (if a company) or (in any other case) its principal place of business. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. This paragraph 20.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this paragraph, "writing" shall not include e-mails and notice given under the Contract shall not be validly served if sent by e-mail.

20.4 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

20.5 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

20.6 If a court or any other competent authority finds that any provision of the Contract (or part of any provision or sub-provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

20.7 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

20.8 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

20.9 A person who is not a party to the Contract shall not have any rights under or in connection with it whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

20.10 Any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when made in writing and signed by Tozer and notified to you in accordance with paragraph 20.3.

20.11 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law and subject to paragraph 17 the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

20.12 The United Nations Convention on the International Sale of Goods shall not apply to the Contract and is now excluded. Unless otherwise expressly stated to the contrary within the Order Confirmation Form, Incoterms®, including the interpretation provisions shall not apply to the Contract and are now excluded.