

## **DUNNS (LONG SUTTON) LTD**

### **TERMS TO APPLY TO A BUYBACK CONTRACT FOR THE PRODUCTION OF PEAS FOR HUMAN CONSUMPTION**

The following Terms apply to the contract between DUNNS (LONG SUTTON) LTD, of Winters Lane, Long Sutton PE12 9BE, (hereafter 'Dunns') and the party named in the accompanying contract, (hereafter 'the Grower').

It is agreed the Grower shall grow for harvest in the contractual year the variety of peas specified in the contract and shall sell to Dunns the total produce of the contractual area.

The terms and conditions contained within the AIC 1/16 Grain and Pulses Contract additionally apply to this contract. Where there is conflict between those terms, the terms of this Contract ("Dunns (Long Sutton) Ltd Terms to Apply To A Buyback Contract For The Production of Peas For Human Consumption") will prevail.

#### **1. SUPPLY OF SEED:**

- a) The seed supplied is to be used only in crop production relating to the contract. Dunns will not be liable in any manner for any failure of the crop being grown, or any part of the crop.
- b) The seed supplied by Dunns shall be used by the Grower for no other purpose than sowing the land contractually specified.
- c) The seed supplied will be chemically treated and may be dangerous to the life and health of human beings and all classes of animals and poultry. All bags will be labelled to show that the seed has been chemically treated. The ultimate grower shall care for the same in such a manner as may be necessary to protect any person or animal/s from any ill-effects therefrom and shall be responsible for any claims arising from his failure to do so.

2. The Grower shall ensure that the stock seed supplied is sown on the contract area. With the object of controlling the multiplication of Pea Root Eelworm, the Grower shall not sow the seed on any land which during the three years prior to sowing the stock seed has been cropped with peas, broad beans, field beans, vetches or any other host crop, or a mixture of such crops. It is expressly agreed that none of the crop produced by the Grower may be retained for use as seed in subsequent years.

3. The Grower shall exercise chemical controls for disease (particularly Marsh Spot), insects, weeds or fungal infestations, as he and Dunns may consider necessary on a timely basis until the expiration of this contract. All pesticides, and the time and manner of their application, shall be subject to the prior approval of Dunns and shall comply with the requirements of DEFRA, relating to the type of pesticide used.

#### **4. PRICE TO BE PAID FOR THE CROP:**

Provided the crop, or part thereof, is required by Dunns for human consumption, and that it is in the opinion of Dunns fit and suitable for that purpose, the price to be paid by Dunns to the Grower shall be as specified in the contract subject to any allowances as provided hereunder. Payment shall be made by Dunns at the end of the month following the month of clearance of the crop. The grower shall be liable for the levy payable by Dunns to the PGRO applicable at the date of

removal of the goods from the Grower's farm.

5. None of the growing crop of Peas shall be ploughed up or otherwise destroyed or disposed of other than in pursuance of the Contract, without the prior consent in writing of Dunns.
6. Dunns may (having previously informed the Grower of their intention) enter upon the farm of the grower for the purpose of inspecting the growing crops of peas, or taking post harvest samples.
7. The Grower shall properly harvest the whole crop and shall deliver the whole quantity of the peas produced to Dunns' transport in a marketable condition after they have been properly harvested and stored post-harvest, as Dunns may direct and require.
8. If the Grower for any reason becomes unable to complete the harvesting and delivery of the peas, then Dunns must be informed in writing immediately when the problem becomes apparent.
9. Each consignment of the peas made by the Grower to Dunns in pursuance of this contract shall be free from foreign material, including but not limited to treated seed, glass and ceramics, metal, stones, soil, thistle head, weed seeds, insects – dead or alive, whole or in part. Should any delivery of the peas be found to contain any defect which, in the absolute opinion of Dunns, renders it unfit for purpose, Dunns shall have the right either to reject the peas or make a claim for damages against the Seller.

Notwithstanding any provision of AIC 1/16 or of any terms to the contrary, the following time limits shall apply to any claim for any remedy, including, for the avoidance of doubt, the rejection of goods, that arises from any defect and/or deficiency in the quality or condition of the goods that was not apparent, discovered or discoverable by the exercise of reasonable diligence at the point of delivery to the Buyer ("a Latent Defect"). For the avoidance of doubt, a defect and/or deficiency of the goods is agreed between the parties to include, but shall not be limited to, chemically treated seed of any type, glass, ceramics, metal, stones, soil, thistle head, weed seeds, dead and/or alive infestation whole or in part.

Rejection: Where on the terms of the contract or at law the Buyer has a right to reject the goods, the Buyer shall not by reason of having sieved, dressed, sorted or otherwise processed the goods be deemed to have accepted the goods or otherwise to have lost the right to reject the goods whether under section 35 of the Sale of Goods Act 1979 (or any statutory replacement or modification thereof) or otherwise. The remedies afforded to the Buyer in clauses 18 and 21 of AIC 1/16 are additional to any statutory remedy that may be available to the Buyer and nothing in those clauses or in this clause [9] shall be interpreted so as to diminish or extinguish any statutory remedy that exists in favour of the Buyer.

In respect of any claim arising from a Latent Defect:

- (a) the time by which the Buyer is to confirm claims for the purposes of clause 21(b) and 21 (c) of AIC 1/16 is hereby amended so that the Buyer shall confirm claims within 120 consecutive days following the discovery of the Latent Defect giving rise to the claim; and
- (b) the time limit for claiming arbitration in clause 25 of AIC 1/16 is amended so as to provide that arbitration shall be commenced within 120 consecutive days following the discovery of the Latent Defect.

10. **Shooting must not take place in or over the crop after flowering in order to eliminate the risk of shot being embedded in the peas. This applies to both the field in which the crop is growing and to the storage area.**



11. Collection/delivery of the pea crop is strictly at 'Dunns' Call'. Any specific agreement to move the produce other than at Dunns' Call must be agreed in writing at the time of the transaction. No deliveries are to be made until Dunns issues specific delivery instructions. The Grower shall provide suitable storage for the peas and shall ensure they are kept in good condition.
12. In respect of green seeded varieties, the contracted peas must, in the absolute discretion of Dunns, be of good, even, green colour throughout. The quantity of white and/or bleached pea levels will be assessed and the peas will be priced in accordance with the contract. In respect of yellow seeded varieties, the contracted peas must, at the absolute discretion of Dunns, be of good, bright and even colour throughout.
13. A representative sample of the harvested peas will be drawn from the bulk and be sent to Dunns for soaking and cooking tests. All samples must be free from non-soaking and Marsh Spot contaminated peas. Failure to attain these standards may result in rejection of the goods or a reduction in the contract price.
14. After all the peas of the crop have been delivered to Dunns' premises or to a nominated store, and processing has been completed, the waste and stain quantity shall be ascertained to establish the price to be paid for the peas by Dunns. It is specifically agreed that the expression "waste and stain" shall mean all material removed during the cleaning process. The agreed waste and stain figure will be determined by the cleaning out-turn and not on any other basis.
15. Dunns may at their absolute discretion reject any peas delivered in pursuance of the Contract which are in any respect below the standard of quality acceptable for the designated purpose.
16. If the moisture content of the peas is over 16% (dry matter basis) Dunns may either, accept the peas with a price deduction of 1.0% of the contract price for each 1.0% or part moisture above 16%, or send the peas for drying with all costs to the Growers account, or Dunns may, at their absolute discretion, reject the peas. The peas shall have a minimum moisture content of 13%; below this level and in the ultimate decision of Dunns, may result in rejection.
17. Should there remain on the farm a balance of the crop that is less than a full lorry load then Dunns will arrange haulage with any additional 'cap' costs being chargeable to the Grower.
18. Dunns' price according to the total value waste and stain content of the peas delivered, shall be as per the contract. Dunns shall pay for all of the peas accepted by the end of the month following the month of movement from the completion of production.
19. In the event of additional cleaning costs being incurred by reason of contamination of the peas (e.g. the inclusion of field beans or other pulses) Dunns reserve the right to pass to the Grower such additional costs incurred.
20. Dunns will deduct from payment to the Grower the PGRO levy relevant at the date of completion of collection/delivery
21. **FORCE MAJEURE** : If any unforeseen failure or delay on the part of the Grower or Dunns in the performance of all or any of their respective obligations herein (other than the payment of money owing) is due to an act of the Queen's enemies or is due to an action of any authority under emergency powers, or is due to fire, flood, or other inevitable accident, strike, combination of, or restriction of work by the workmen of the Grower or of Dunns, or of any person, firm or Company, then such failure or delay, to the extent to which it is so due, shall not constitute any default or

breach of contract on the part of the Grower or of the Company and no damages shall be payable. Force Majeure is not a reason for cancellation of the contract by either party but an arrangement whereby the performance of the contract may be resumed when the obstruction to the performance is cured or removed.

- 22.** The Grower shall keep a record of all chemicals applied to the crop from sowing to harvest and this record is to be made available to Dunns on request. It is agreed that all chemicals used in the production of the peas are applied in line with manufacturers on label recommendations. Only chemicals officially approved under the Control of Pesticide Regulations 1986 or any subsequent amendment thereto may be used in production of these peas. Failure by The Grower in whole or in part to keep such a record shall be considered to be a breach of this contract.
- 23.** The Grower shall have comprehensive Product Liability Insurance cover.
- 24.** This contract is not transferable by either party, except with the written consent of the other party, but (i) in the event of the death or bankruptcy of the Grower it shall be binding upon, and ensure for the benefit of his personal representative or trustee in bankruptcy, and (ii) the rights and obligations of Dunns shall be exercised by any successor in the whole business of Dunns.
- 25.** Dunns has the right to alter these contract terms (including price structure) as a result of (a) any alterations to EU legislation relating to field peas, or (b) the introduction of any changes affecting the price of peas in the U.K.
- 26. DISPUTE RESOLUTION :**  
Unless otherwise agreed any dispute (other than a claim for an unpaid debt) arising out of the Contract shall be referred to arbitration in accordance with the arbitration rules of the Agricultural Industries Confederation Limited, (obtainable from the registered office of the Confederation or from Dunns) and both parties shall, by making the contract, be deemed to have knowledge of such rules and to have elected to be bound thereby.
- 27. TIME LIMITS FOR CLAIMING ARBITRATION**  
Notwithsatnding Clause 9, all other claims of arbitration shall be made within 12 months of the harvest of the crop.
- 28. ASSURANCE:**  
All crops applicable to the contract must be grown and stored on a farm under an accredited, recognisable and audited farm assurance scheme. The farm on which they are grown must also be suitably accredited under a recognised and audited farm assurance scheme suitable for purpose.
- 29. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999:**  
Pursuant to S.I(1)(a) of the Contracts (Rights of Third Parties) Act 1999, the parties intend that no term of the contract may be enforced by a third party.
- 30. DOMICILE:**  
The contract shall be deemed to have been made in England, and the construction, validity and performance thereof shall be governed in all aspects by English law.
- 31. MODERN SLAVERY ACT 2015**  
The Modern Slavery Act 2015 came into force in October 2015, the act encompasses human trafficking, slavery, servitude and forced or compulsory labour. The Company are committed to the rights and well-being of the people who work for us and our suppliers. As such, we're committed to taking the appropriate steps to ensure that everyone who works for us benefits

from a working environment in which their fundamental rights and freedoms are respected. Our company policy promotes freedom of association and clearly defines that forced labour is unacceptable. We ensure all of our employees are legally entitled to work, registered to pay the appropriate tax and National Insurance contributions and that relevant legislation relating to health and safety, Working Time Regulations, pension enrolment and minimum wage are followed.

As a valued trading partner our expectation and requirement is that your business operates and is committed to the same ethical standards as we are, ensuring the rights and well-being of your own employees and those within your own direct supply chain. We recognise that the issue of slavery and human trafficking is a global issue and often difficult to detect; therefore, open communication with our supply chain is critical to ensure that any issues are detected and resolved. We welcome and encourage our trading partners to discuss any queries or concerns you may have relating to this legislation. If you have any questions or require any guidance relating to slavery or human trafficking, then please contact our Human Resource Department: [HR@leadell.co.uk](mailto:HR@leadell.co.uk)

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