



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').

Whereby 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

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 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 (e.g. glass, 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 stone or glass admixture Dunns reserves the right either to reject the peas or claim an allowance for cleaning them. In the event that soil or similar admixture is excessive on delivery, then Dunns may either reject or clean the produce. If the produce is cleaned then this cost will be charged to the Grower and deducted from the price to be paid for the produce. The Grower's quantity to be paid for will then be deemed to be the out-turn weight after any pre-cleaning. Excess admixture (in excess of 2% by weight) will be subject to a disposal charge of £50.00 per tonne. Admixture maximum is to be 2.0%, above which deductions will be made at 1% of the contract price per 1.0% or part thereof above the maximum allowed.
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.
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 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 must be ACCS registered and 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

All claims for 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.

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.