1. DEFINITIONS

In these Conditions, the following definitions shall have the following meanings:

* 1. **Business Day**: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Charges**: the charges payable by the Customer for the supply of Services in accordance with clause 5.

**Conditions**: the Supplier’s terms and conditions as amended from time to time in accordance with clause 9.4.

**Contract**: the contract between the Supplier and the Customer for the supply of Services to which these terms and conditions are annexed or are otherwise deemed to be incorporated.

**Customer**: the person or other legal entity who purchases Services from the Supplier.

**Order**: the Customer's order for Services as set out in the Supplier’s order form or the Customer's written acceptance of a quotation by the Supplier.

**Services**: the grain cleaning and drying services supplied by the Supplier to the Customer under the Contract.

**Services Start Date**: the date on which the Supplier shall commence supply of the Services, as set out in the Order.

**Specification**: the description or specification of the Services provided in the Contract.

**Supplier**: Grain Services Ltd, a company incorporated and registered in England and Wales with company number 16073606, whose registered office is at Latchleys Manor, Hempstead Road, Steeple Bumpstead, Haverhill, Suffolk, CB9 7DZ, United Kingdom.

1. Basis of contract
   1. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
   2. The Order shall only be deemed to be accepted when the Order has been signed by both parties (or on behalf of the parties) or otherwise agreed by the Supplier in writing (e.g. by email), at which point and on which date the Contract shall commence.
   3. Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues, brochures or website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
   4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
   5. Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue.
2. Supply of Services
   1. The Supplier shall supply the Services to the Customer from the Services Start Date in accordance with the Contract.
   2. In supplying the Services, the Supplier shall:
      1. use reasonable endeavours to supply the Services in accordance with the Specification in all material respects;
      2. use reasonable endeavours to meet any performance dates specified in the Contract (if any), but any such dates shall be estimates only and time shall not be of the essence for performance of the Services; and
      3. perform the Services with reasonable care and skill.
   3. The parties acknowledge and agree that the Supplier cannot guarantee that all impurities (including but not limited to ergot) will be completely removed from the grain.
   4. The Supplier reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
3. Customer's obligations
   1. The Customer shall:
      1. ensure that the terms of the Order are complete and accurate;
      2. co-operate with the Supplier in all matters relating to the Services;
      3. provide the Supplier with such information about the grain and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
      4. provide the Supplier with passport number and Red Tractor number; and
      5. comply with all health and safety rules and requirements that apply at the Supplier’s premises and which are notified to the Customer.
   2. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation, the Supplier shall:
      1. have the right to suspend performance of the Services until the Customer remedies the prevention, delay or default;
      2. not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations under the Contract; and
      3. have the right to recover any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer’s prevention, delay or default.
4. Charges and payment
   1. The price for the Services shall be the price set out in the Contract (in the Supplier’s order form and calculated based on gross weight of the grain on intake).
   2. The Supplier shall invoice the Customer on completion of the Services.
   3. The Customer shall pay each invoice due and submitted to it by the Supplier within 30 days of receipt, to a bank account nominated in writing by the Supplier.
   4. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
   5. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%.
   6. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
5. Limitation of liability
   1. The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £10,000,000 (ten million) per claim for public liability. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of: (i) any excess loss and (ii) all other risks that would normally be insured against in connection with the risks associated under this Contract.
   2. References to liability in this clause 6 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
   3. Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
   4. Nothing in this clause 6 shall limit the Customer's payment obligations under the Contract.
   5. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
      1. death or personal injury caused by negligence;
      2. fraud or fraudulent misrepresentation; and
      3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
   6. Subject to clause 6.3 and clause 6.5, the Supplier's total liability to the Customer for all loss or damage arising under or in connection with the Contract shall not exceed the market value of the load at midday on the day it arrives for processing, as determined by reference to the AHDB (Agriculture and Horticulture Development Board) ex-farm price at the relevant time.
   7. Subject to clause 6.3, clause 6.4 and clause 6.5, this clause 6.7 sets out the types of loss that are wholly excluded:
      1. loss of profits;
      2. loss of sales or business;
      3. loss of agreements or contracts;
      4. loss of anticipated savings;
      5. loss of use or corruption of software, data or information;
      6. loss of or damage to goodwill; and
      7. indirect or consequential loss.
   8. The Supplier has given warranties in relation to the Services under clause 3 and in view of such warranties, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
   9. This clause 6 shall survive termination of the Contract.
6. Termination
   1. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
      1. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
      2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
      3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
      4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
   2. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
   3. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract by giving the Customer one months’ written notice.
7. Consequences of termination
   1. On termination or expiry of the Contract, the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
   2. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, 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.
   3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
8. General
   1. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. A force majeure event may include (but is not limited to): acts of God, flood, drought or other natural disaster; collapse of buildings, fire, explosion or accident; epidemic or pandemic; war, threat of or preparation for war, civil commotion or riots; any labour or trade dispute, strikes or industrial action; non-performance by suppliers or subcontractors and interruption or failure of a utility service.
   2. **Assignment and other dealings.**
      1. The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
      2. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
   3. **Entire agreement.**
      1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
      2. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
   4. **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
   5. **Waiver**. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
   6. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.If any provision or part-provision of this Contract is deleted under this clause 9.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
   7. **Notices.**
      1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
      2. Any notice shall be deemed to have been received:
         1. if delivered by hand, at the time the notice is left at the proper address;
         2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
         3. if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 9.7(b)(iii),business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
      3. This clause 9.7 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
   8. **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
   9. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
   10. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.