

Terms and Conditions of Sale for Thames Valley Cambac Limited

The customer's attention is drawn in particular to the provisions of clause 8.

1. Interpretation

1.1 **Definitions.** In these Conditions, the following definitions apply:

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

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 10.6.

Contract: the contract between the Supplier and the Customer for the sale and purchase of Pigs in accordance with these Conditions.

Customer: the person or firm who purchases the Pigs from the Supplier.

Order: the Customer's order for Pigs, as set out in the Customer's purchase order.

Penalties Schedule: details of Carcass Condemned Codes, Weight Deductions and Price Penalties as attached to the Order.

Pigs: finished pigs, weaners, stores, culls, breeding stock, and any other associated products as set out in the Order.

Supplier: Thames Valley Cambac Limited (registered in England and Wales with company number 01199318).

1.2 **Construction.** In these Conditions, the following rules apply:

(a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(b) A reference to a party includes its personal representatives, successors or permitted assigns.

(c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(d) 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.

(e) A reference to **writing** or **written** includes faxes, e-mails and other electronic forms.

2. Basis of contract

2.1 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 trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Pigs in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any specification submitted by the Customer are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract including any advice or recommendation given by the Seller or its employees or agents to the Buyers or its employees or agents as to the husbandry or management of the Pigs.

2.5 Subject to the other terms and conditions contained herein and in particular clause 8, the Customer may rely on any written advice or recommendations given by the Seller or its employees or agents to the Buyers or its employees or agents as to the husbandry or management of the Pigs.

2.6 Any descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues, brochures or websites are produced for the sole purpose of giving an approximate idea of the Pigs described in them. They shall not form part of the Contract or have any contractual force.

3. **Delivery**

3.1 The Supplier shall ensure that each delivery of Pigs is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Pigs special husbandry or management instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Pigs remaining to be delivered.

3.2 The Supplier shall deliver the Pigs to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time the parties may agree (**Scheduled Time**).

3.3 All loads of store and weaner Pigs shall be bulk weighed using an actual tare weight on a Ministry approved weighbridge and a printed ticket to be obtained.

3.4 Delivery of the Pigs shall be completed on the completion of unloading of the Pigs at the Delivery Location.

3.5 If the Customer does not accept delivery at the Scheduled Time, the Customer shall arrange, at its own cost, for the overlay of the Pigs.

3.6 The Customer shall pay for the number of Pigs receipted by him on delivery.

4. **Quality**

4.1 The Supplier warrants that on delivery the Pigs shall:

- (a) conform in all material respects with any applicable specification in the Order;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);
- (c) be fit for any purpose held out by the Supplier; and

(d) be clearly slap-marked on both shoulders using black or brown food grade marking ink only(Slaughter Pigs Only);

(e) in a clean condition acceptable to the Food Standards Agency (**FSA**) for slaughter, if applicable. The only remedy available to the Customer for delivery of Pigs in a dirty condition such that the Customer is required by the FSA to withhold the animals from slaughter until cleaned, is to issue a warning to the Supplier and the Supplier's haulier and deduct a pig washing charge in accordance with Penalties Schedule;

(f) meet all statutory requirements relating to the rearing of and movement of live pigs to slaughter including the completion of the electronic animal movement license (eAML2);

(g) be accompanied by the correct paperwork completely and correctly fulfilled including:

(i) the holding address;

(ii) slap-mark;(Slaughter Pigs Only)

(iii) farm assurance details;

(iv) the haulier's copy of Animal Movement Licence (AML2);

(v) Food Chain Information (FCI) documentation (for casualty pigs) if not completed electronically;

(vi) producer health declarations as requested on a periodic basis (for example – owner/manager declaration for abattoir food chain information form for herds of origin for export of pig meat to the People's Republic of China).

The only remedy available to the Customer for delivery of Pigs arriving at any abattoirs without any one of the documents listed above, or with incorrectly completed paperwork, will be to prevent such Pigs from entering the human food chain by either the FSA or Official Veterinary Surgeon (OV) until such time as the correct paperwork is presented

4.2 The Supplier warrants that:

(a) a health status has been maintained at the production facility in accordance with the 1991 Codes of Recommendations for the Welfare of Livestock (Pigs) including appropriate control of infection;

(b) all Pigs have been reared in a humane and welfare conscious manner in accordance with Department of the Environment Food and Rural Affairs (DEFRA) legislation and recommendations for the welfare of pigs with particular reference to the Welfare of Farmed Animals (England) Regulations 2007 as amended in 2010.

(c) all Pigs have been produced under conditions compliant with EU Council directive 2008/120/EC;

(d) no Pigs have been given medication except when prescribed by a veterinary surgeon and all legislative withdrawal rules have been applied;

(e) it shall promptly notify the Customer if any disease/health breakdown, either notifiable or otherwise should occur at the production unit;

(f) all hauliers used have adhered strictly to all current legislation and codes of practice that apply to the movement and transit of pigs and in particular the EU Council Regulation no. 1/2005 on the protection of animals during transport and related operations as summarised in the DEFRA document "Welfare of Animals during Transport Order 2007 – Advice for transporters of pigs".

4.3 Subject to clause 4.4, if the Customer gives notice in writing to the Supplier within 24 hours of the date of delivery that some or all of the Pigs do not comply with the warranty set out in clauses 4.1 or 4.2 and, provided the Supplier is given a reasonable opportunity to examine such Pigs:

(a) if a whole carcass is condemned in full then the Customer shall not be required to pay for the condemned carcass and the Supplier shall pay the appropriate charge for carcass disposal as set out in the Penalties Schedule, or

(b) if part only of a carcass is condemned then, following disposal of the infected area, the price payable for such Pigs will be subject to the Penalties Schedule.

Under no circumstances shall the Customer be entitled to seek to return the Pigs to the Supplier.

4.4 The Supplier shall not be liable for a failure to comply with the warranties set out in clauses 4.1 and 4.2 in any of the following events:

(a) the Customer makes any further use of such Pigs after giving notice in accordance with clause 4.3;

(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the husbandry and welfare of the Pigs or (if there are none) good trade practice regarding the same;

(c) the defect arises as a result of wilful damage or negligence.

4.5 Except as provided in this clause 4, the Supplier shall have no liability to the Customer in respect of a Pigs failure to comply with the warranties set out in clause 4.1 and 4.2.

4.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5. **Title and risk**

5.1 The risk in the Pigs shall pass to the Customer on completion of delivery.

5.2 Title to the Pigs shall not pass to the Customer until the earlier of:

(a) the Supplier receiving payment in full (in cash or cleared funds) for the Pigs and any other Pigs that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Pigs shall pass at the time of payment of all such sums; and

(b) the Customer resells the Pigs or their meat or other derivative products, in which case title to the Pigs shall pass to the Customer at the time specified in clause 5.4.

5.3 Until title to the Pigs has passed to the Customer, the Customer shall:

(a) not remove, deface or obscure any identifying mark on or relating to the Pigs or their meat or other derivative products;

(b) maintain the Pigs or their meat or other derivative products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

(c) notify the Supplier immediately if it becomes subject to any of the events listed in clause 7.2; and

(d) give the Supplier such information relating to the Pigs or their meat or other derivative products as the Supplier may require from time to time.

5.4 Subject to clause 5.5, the Customer may resell the Pigs or their meat or other derivative products in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Pigs. However, if the Customer resells the Pigs before that time:

(a) it does so as principal and not as the Supplier's agent; and

(b) title to the Pigs shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

5.5 If before title to the Pigs passes to the Customer the Customer becomes subject to any of the events listed in clause 7.2, then, without limiting any other right or remedy the Supplier may have:

(a) the Customer's right to resell the Pigs or their meat or other derivative products or use them in the ordinary course of its business ceases immediately; and

(b) the Supplier may at any time:

(i) require the Customer to deliver up all Pigs or their meat or other derivative products in its possession which have not been resold, or irrevocably incorporated into another product; and

(ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Pigs or their meat or other derivative products are stored in order to recover them.

6. Price and payment

6.1 The price of the Pigs shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery.

6.2 Any unfit, unsound, under or overweight Pigs will be paid for at valuation, to be agreed with by the parties.

6.3 The Customer may make deductions as follows:

(a) an amount per Pig for AHDB carcass classification and weighing charge;

(b) an amount per Pig as a contribution to meat inspection costs and residue testing;

(c) an amount per Pig for the AHDB General and Promotion Levy,

provided that such deduction are for a maximum of the then current industry standard amount (**Industry Standard Deductions**). Changes to the Industry Standard Deductions must be notified by giving the Supplier no less than 20 Business Days' notice in writing.

6.4 The price of the Pigs is exclusive of the costs and charges of insurance and transport of the Pigs, which shall be invoiced to the Customer.

6.5 The price of the Pigs is exclusive of amounts in respect of value added tax (VAT). 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 Pigs.

6.6 The Supplier may invoice the Customer for the Pigs on or at any time after the completion of delivery.

6.7 The Customer shall pay the invoice in full and in cleared funds in accordance with agreed terms. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.

6.8 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 amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

6.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

7. Termination and suspension

7.1 The Contract may be terminated by the Supplier with immediate effect by written notice to the Customer:

- (a) If the Customer is considered, in the Supplier's reasonable opinion, to have been cruel to any animal; or
- (b) if the Customer becomes subject to any of the events listed in clause 7.2.

7.2 For the purposes of clause 7.1, the relevant events are:

- (a) the other party commits a material breach of any term of the Contract (a failure to pay any amount due under this Contract shall be deemed to be a material breach for the purposes of this clause) 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;
- (b) 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), 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;
- (c) 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
- (d) 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.

7.3 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.

7.4 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

7.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

8. **Limitation of liability**

The Customer's attention is particularly drawn to this clause.

In respect of any claims including for loss of profits or revenues, loss of, or damage to, data or information systems, loss of contract or business opportunities, loss of anticipated savings, loss of goodwill, and any economic, indirect, special or consequential loss, damage or any other claims whether or not arising from tort, contract or negligence and to the extent permitted by law, the Supplier's liability to the Customer is limited to the amount the Customer has paid for the Pigs.

9. **Force majeure**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable. Nevertheless the parties shall cooperate to ensure the welfare of the Pigs and their appropriate disposal.

10. **General**

10.1 **Assignment and other dealings.**

(a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

10.2 **Notices.**

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 10.2(a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, at 9.00 am on the next Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

10.3 **Severance.**

(a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal

and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

(b) If [one party gives notice to the other of the possibility that] any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

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

10.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

10.6 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.

10.7 **Governing law.** 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 the law of England and Wales.

10.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).