



TERMS AND CONDITIONS FOR THE SUPPLY OF PRODUCTS

1. Definitions and Interpretation

The following definitions and rules of interpretation shall apply in these Terms.

In this Contract:

1.1 unless the context requires otherwise, the following terms shall have the following meanings:

ADR Notice	has the meaning set out in clause 2.2;
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
CEDR	has the meaning set out in clause 12;
Cogent	Cogent Breeding Limited (Company number 02750987) of Beachin Stud, Lea Lane, Aldford, Chester, CH3 6)Q, United Kingdom, or Five Star Breeders Limited (Company number 1057394), 15-16 Pontnewynydd Small Business Centre, Pontnewynydd, Pontypool NP4 6AD, as outlined in the Order Acknowledgement;
Commencement Date	has the meaning set out in clause 2.2;
Contract	the contract between Cogent and the Client for the supply of Products in accordance with these Terms;
Client	the person or firm who purchases the Products from Cogent;
Client Default	has the meaning set out in clause 6.3;
Delivery	shall occur in accordance with clause 3.2 or shall be deemed to have occurred in accordance with clause 3.5.1, and Deliver and Delivered shall be interpreted accordingly;
Delivery Location	has the meaning set out in clause 3.1;
Flask	has the meaning set out in clause 3.2.2;
Force Majeure Event	has the meaning set out in clause 12;
Products	the products (or any part of them) outlined in the Order and confirmed in the Order Acknowledgement;
Indemnified Party	has the meaning set out in clause 7;
Intellectual Property Rights	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such



rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

LIC	Livestock Improvement Corporation Limited, a New Zealand incorporated company (NZ company registration number 357590) and its assign(s) and/or successor(s);
LIC Group	LIC UK, its subsidiary undertakings, its holding company (LIC) and all subsidiary of LIC from time to time;
LIC Semen	semen produced or supplied (directly or indirectly) by LIC UK or LIC including SGL Product.
LIC Semen Products	LIC Semen sold by Cogent to the Client in accordance with these Terms;
LIC UK	Livestock Improvement Corporation (UK) Ltd, a company registered in England and Wales (company registration number 01701017 (ACN 110 259 400)) and its assign(s) and/or successor(s);
Offspring	first-generation male offspring of matings using LIC Semen which shall include SGL Offspring;
Order	the Client's order for the supply of Products, as submitted by the Client to Cogent from time to time;
Order Acknowledgment	a written document, issued to the Client by Cogent from time to time outlining the Products to be supplied by Cogent to the Client;
Products	the products (or any part of them) set out in the Order;
SGL Germplasm	has the meaning set out in clause 6.4.3.1;
SGL Offspring	male or female offspring or descendants of matings using SGL Product;
SGL Product	short gestation length semen marketed or specified as capable of enabling cows that are mated with such semen to calve earlier than would otherwise be the case;
SGL Transferee	has the meaning set out in clause 6.4.3.4;
Single A.I. Use	has the meaning set out in clause 6.4.5.2;
Terms	these terms and conditions as amended from time to time in accordance with clause 14.8; and
Transferee	has the meaning set out in clause 6.4.1.3;
VAT	has the meaning set out in clause 8.4; and
Warranty Period	has the meaning set out in clause 4.1;
1.2	a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
1.3	a reference to a party includes its personal representatives, successors and permitted assigns;
1.4	a reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision;



1.5 any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms; and

1.6 a reference to writing or written includes email.

2. Basis of Contract

2.1 The Order constitutes an offer by the Client to purchase Products in accordance with these Terms.

2.2 The Order shall only be deemed to be accepted when Cogent issues the Client with an Order Acknowledgement, at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 Any samples, drawings, descriptive matter or advertising issued by Cogent and any descriptions of the Products set out on, or contained in, Cogent's website, catalogues, brochures or marketing materials are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not:

2.3.1 form part of the Contract;

2.3.2 have any contractual force; or

2.3.3 constitute any representation or warranty.

2.4 These Terms apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by Cogent shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue from Cogent to the Client.

2.6 These Terms shall apply to the supply of any Products by Cogent to the Client but shall not apply to any services provided by Cogent to the Client. The supply of such services shall be governed by Cogent's terms and conditions for the supply of services, as amended from time to time.

2.7 These Terms shall apply to any contract between Cogent and the Client where the Client has had previous notice of these Terms even if the Order giving rise to the Contract makes no specific reference to the Terms.

2.8 The Client waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Client that is inconsistent with these Terms.

3. Delivery of Products

3.1 Cogent shall use reasonable endeavours to deliver the Products to the location set out in the Order Acknowledgement or such other location as the parties may agree in writing from time to time (**Delivery Location**) on or before the delivery date set out in the Order Acknowledgement or such other date as the parties may agree in writing from time to time (**Delivery Date**).

3.2 Delivery of the Products shall be completed when:

3.2.1 For non-semen Products: the Products are unloaded by Cogent (or any third party instructed by Cogent) at the Delivery Location; or

3.2.2 For semen Products: on delivery of the semen Products into the Client's flask for the storage of animal semen (**Flask**) at the Delivery Location;

(**Delivery**).

3.3 Any Delivery Dates are approximate only, and the time of Delivery is not of the essence. Cogent shall not be liable for any delay in Delivery of the Products that is caused by a Force Majeure Event or the Client's failure



to provide Cogent with adequate delivery instructions or any other instructions that are relevant to the supply of the Products. Failure to Deliver the Products by the Delivery Date shall not constitute a breach of the Contract by Cogent and Cogent shall have no liability for, and the Client shall accept, any such delayed Delivery.

- 3.4 If Cogent fails to Deliver the Products, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement Products of similar description and quality in the cheapest market available, less the price of the Products. Cogent shall have no liability for any failure to Deliver the Products to the extent that such failure is caused by a Force Majeure Event or the Client's failure to provide Cogent with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 3.5 If the Client (or a third party instructed or authorised by the Client) fails to accept Delivery at the Delivery Location, then except where such failure or delay is caused by a Force Majeure Event or by Cogent's failure to comply with its obligations under the Contract in respect of the Products:
 - 3.5.1 Delivery shall be deemed to have been completed at 5:00pm on the on the date that the Products arrived at the Delivery Location; and
 - 3.5.2 Cogent shall store the Products until actual Delivery takes place and charge the Client for all related costs and expenses (including insurance and for re-delivery of the Products).
- 3.6 If 10 Business Days after the day on which Cogent attempted to Deliver the Products, actual physical Delivery has not taken place, Cogent may resell or otherwise dispose of part or all of the Products without liability.
- 3.7 Cogent may Deliver the Products 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 the Client to cancel any other instalment.

4. Quality of Products

- 4.1 Subject to clause 4.3 and clause 4.4, Cogent warrants that on Delivery, and for a period of 30 days from the Delivery Date or until the Product is first used by the Client, whichever is earlier (**Warranty Period**), the Products shall:
 - 4.1.1 conform in all material respects with the description given to them in any Order Acknowledgement; and
 - 4.1.2 except in relation to semen Products or embryo Products, be free from material defects in design, material and workmanship.
- 4.2 Subject to clause 4.4, if:
 - 4.2.1 the Client gives notice in writing to Cogent during the Warranty Period within 2 Business Days of discovery that some or all of the Products do not comply with the warranty set out in clause 4.1;
 - 4.2.2 Cogent is given a reasonable opportunity of examining such Products following written notice being provided to Cogent by the Client in accordance with clause 4.2.1;

Cogent shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full.

- 4.3 The Client acknowledges and agrees that:
 - 4.3.1 in the case of semen Products and embryo Products, they are natural products and there is no test that can determine fertility or viability in utero so Cogent cannot and does not warrant or represent that any semen Products or embryo Products:
 - 4.3.1.1 will be fertile and/or viable;



- 4.3.1.2 will result in a viable pregnancy;
 - 4.3.1.3 will produce a calf that exhibits all or any of the characteristics disclosed in any proof (promulgated by the relevant trade standard body or otherwise); or
 - 4.3.1.4 are free from genetic defects (including complex vertebral malformation); and
- 4.3.2 in the case of sexed semen Products, Cogent cannot and does not warrant or represent that the sorting levels referred to in its marketing literature will result in a corresponding sex ratio in calves produced as a result of such Products.

4.4 The Client acknowledges and agrees that:

- 4.4.1 there are inherent risks involved in connection with the fertility Products provided by Cogent, especially in relation embryo transfer;
- 4.4.2 no warranties or representations can be given in relation to the viability, fertility, conformity with proofs, absence of genetic defects or the sex of any embryo Products or semen Products; and

as such, Cogent accepts no liability for the death, ill health, infertility, injury or loss of breeding potential of any donor or recipient animal or the sex, death, ill health or non-viability of any resulting progeny (including any Offspring) except in each case to the extent caused directly by Cogent's failure to comply with its obligation under clause 4.1 and then only up to the maximum amount specified in clause 9.3 or clause 9.4, as applicable. Therefore, the Client is advised to take out appropriate insurance in relation to such risks.

4.5 Cogent shall not be liable for the Products' failure to comply with the warranty set out in clause 4.1 if:

- 4.5.1 the Client makes any further use of such Products after giving a notice in accordance with clause 4.2;
- 4.5.2 the defect arises because the Client failed to follow Cogent's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice regarding the same;
- 4.5.3 the defect arises as a result of Cogent following any drawing, design or specification supplied by the Client;
- 4.5.4 the Client alters such Products without the written consent of Cogent;
- 4.5.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- 4.5.6 storage or transportation by, use, or any act, neglect or default of the Client, third party AI technician or any other third party;
- 4.5.7 the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
- 4.5.8 the Products are used in accordance with any third party products or equipment not approved in writing in advance by Cogent.

4.6 These Terms shall apply to any repaired or replacement Products supplied by Cogent.

4.7 Except as provided in this clause 4, Cogent shall have no liability to the Client in respect of the Products' failure to comply with the warranty set out in clause 4.1 and any other conditions, terms, warranties, rights, or other obligations (statutory, contractual, tortious or otherwise) whether express or implied howsoever which (save to give the effect to the Terms) are hereby excluded.



5. Title and Risk

- 5.1 The risk in the Products shall pass to the Client on completion of Delivery in accordance with clause 3.2 or 3.5.1, as applicable.
- 5.2 Title to the Products shall not pass to the Client until the earlier of:
- 5.2.1 Cogent receiving payment in full (in cash or cleared funds) for the Products as well as payment for any other Products that Cogent has supplied to the Client in respect of which payment has become due, in which case title to the Products shall pass at the time of payment of all such sums; and
 - 5.2.2 the Client resells the Products, in which case title to the Products shall pass to the Client at the time specified in clause 5.4.
- 5.3 Until title to the Products has passed to the Client, the Client shall:
- 5.3.1 store the Products separately from all other Products held by the Client so that they remain readily identifiable as Cogent's property;
 - 5.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
 - 5.3.3 maintain the Products in satisfactory condition and keep them insured against all risks for their full price on Cogent's behalf from the date of delivery;
 - 5.3.4 notify Cogent immediately if it becomes subject to any of the events listed in clause 10.2.2 to clause 10.2.4; and
 - 5.3.5 give Cogent such information as Cogent may reasonably require from time to time relating to:
 - 5.3.5.1 the Products; and
 - 5.3.5.2 the ongoing financial position of the Client.
- 5.4 Subject to clause 5.5, the Client may resell or use the Products (save for any LIC Semen Products) in the ordinary course of its business (but not otherwise) before Cogent receives payment for the Products. However, if the Client resells the Products before that time:
- 5.4.1 it does so as principal and not as Cogent's agent; and
 - 5.4.2 title to the Products shall pass from Cogent to the Client immediately before the time at which resale by the Client occurs.
- 5.5 At any time before title to the Products passes to the Client, Cogent may:
- 5.5.1 by notice in writing, terminate the Client's right under clause 5.4 to resell the Products or use them in the ordinary course of its business; and
 - 5.5.2 require the Client to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into another product and if the Client fails to do so promptly, enter any premises of the Client or of any third party where the Products are stored in order to recover them.

6. Client's Obligations

- 6.1 The Client shall:
- 6.1.1 ensure that the terms of the Order are complete and accurate;
 - 6.1.2 provide Cogent with such information and materials as Cogent may reasonably require in order to supply the Products, and ensure that such information is complete and accurate in all respects;



- 6.1.3 comply with all applicable laws, including health and safety laws;
 - 6.1.4 comply with Cogent's directions for the storage of semen Products and embryo Products, the insemination of all semen (sexed or conventional) Products, and the transfer of all embryo Products;
 - 6.1.5 ensure that any Delivery Location is safe and complies with all applicable laws, regulations and codes of practice which may be in force from time to time and, without limitation, that Cogent's employees, agents and sub-contracts have obstruction free safe access to any Flask to which the Client has requested Cogent deliver semen Products;
 - 6.1.6 co-operate with Cogent in all matters relating to the supply of the Products;
 - 6.1.7 provide Cogent, its employees, agents, consultants and sub-contractors, with access to the Client's premises and other facilities as reasonably required by Cogent to supply the Products; and
 - 6.1.8 obtain and maintain all necessary licences, permissions and consents which may be required before the Delivery Date.
- 6.2 The Client represents and warrants to Cogent that any Flask that Cogent is required to deposit semen Products into, whether it is owned by, or under the control of the Client or a third party, is safe, in good condition, free from defects, and is fit for the purpose of storing the semen Products in liquid nitrogen and has, and will continue to have, the correct level of liquid nitrogen to maintain the semen Products in good condition.
- 6.3 If Cogent's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):
- 6.3.1 without limiting or affecting any other right or remedy available to it, Cogent shall have the right to suspend Delivery of the Products until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays Cogent's performance of any of its obligations;
 - 6.3.2 Cogent shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Cogent's failure or delay to perform any of its obligations as set out in this clause 6.2; and
 - 6.3.3 notwithstanding clause 7, the Client shall reimburse Cogent on written demand for any costs or losses sustained or incurred by Cogent arising directly or indirectly from the Client Default.
- 6.4 If the Products purchased by the Client are LIC Semen Products then the following additional terms shall also apply:
- 6.4.1 The Client must not, except with LIC UK's prior written permission (which shall be sought by the Client submitting a written request to Cogent), directly or indirectly:
 - 6.4.1.1 advertise for sale or supply, or sell or otherwise supply, or collect, deal in or use in any way for any purpose, any semen from any Offspring;
 - 6.4.1.2 use the Offspring, or allow the Offspring to be used in circumstances where the Offspring are used or may be used, for the collection of semen; or
 - 6.4.1.3 provide access to, or possession of, or dispose of, the Offspring (whether born or unborn) to any person (other than a director or an officer, employee or agent of the Client, acting in that capacity) (**Transferee**) in circumstances where the Offspring will or may be used for the collection of semen, without first entering into a written agreement with the Transferee transferring the obligations in clause 6.4 to the Transferee in the form directed by Cogent (at LIC UK's instruction) from time to time and delivering the original agreement to Cogent within 14 days of entering into it.
 - 6.4.2 This restrictions set out in clause 6.4.1, which:



- 6.4.2.1 do not prevent the use of the Offspring for natural matings; and
- 6.4.2.2 apply irrespective of the means by which the Client came into possession or control of any LIC Semen Products, Offspring or semen from Offspring:
- are reasonably required to protect the value and viability of the LIC Group's artificial breeding and genetics programme, which represents a substantial and long term investment in capital, research and development, and sire proving, and which is of strategic importance to the LIC Group.
- 6.4.3 The Client acknowledges that each SGL Product embodies valuable Intellectual Property Rights belonging to the LIC Group and is sold solely for the purpose of facilitating short gestation length pregnancies and SGL Offspring must not be bred by the Client. To that end, the Client must not, except with LIC UK's prior written permission (which shall be sought by the Client submitting a written request to Cogent), directly or indirectly:
- 6.4.3.1 advertise for sale or supply, or sell or otherwise supply, or collect, deal in or use in any way for any purpose, any semen, embryo or other form of germplasm (**SGL Germplasm**) from any SGL Offspring;
- 6.4.3.2 use the SGL Offspring, or allow the SGL Offspring to be used in circumstances where the SGL Offspring are used or may be used, for the collection of SGL Germplasm;
- 6.4.3.3 use the SGL Offspring, or allow the SGL Offspring to be used where the SGL Offspring, or the SGL Germplasm of the SGL Offspring, is mated with any other animal using any form of breeding or reproductive technology, including artificial insemination, embryo transfer or natural mating; or
- 6.4.3.4 provide access to, or possession of, or dispose of the SGL Offspring (whether born or unborn) to any person (other than a director or an officer, employee or agent of the Client, acting in that capacity) (**SGL Transferee**) in circumstances where the SGL Offspring will or may be used for mating or the collection of SGL Germplasm without first entering into a written agreement with the SGL Transferee transferring the obligations in clause 6.4 to the SGL Transferee in the form directed by Cogent (at LIC UK's instruction) from time to time and delivering the original agreement to Cogent within 14 days of entering into it.
- 6.4.4 The Client acknowledges that the restrictions set out in clause 6.4.3 apply irrespective of the means by which the Client came into possession or control of any SGL Offspring and/or any SGL Germplasm and is reasonably required to protect the value and viability of the LIC Group's artificial breeding and genetics programme, which represents a substantial and long term investment in capital, research and development, and which is of strategic importance to the LIC Group.
- 6.4.5 Notwithstanding clause 6.4.1, clause 6.4.2, clause 6.4.3 and clause 6.4.4, the Client warrants and represents that it shall:
- 6.4.5.1 not use any LIC Semen Products to create a nucleus herd or produce sires for the purpose of semen collection for artificial breeding;
- 6.4.5.2 only use sexed semen LIC Semen Products for a single artificial insemination of one female bovine during natural ovulation with the intent to produce a single offspring (**Single A.I. Use**), unless specifically approved by LIC UK in writing (which shall be sought by the Client by submitting a written request to Cogent).

7. Indemnity

The Client shall indemnify, keep indemnified, and hold harmless, Cogent, and each member of the LIC Group, (each an **Indemnified Party**) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses)



suffered or incurred by the relevant Indemnified Party arising out of or in connection with any breach by the Customer of any of these Terms (and in particular clause 6).

8. Charges and Payment

- 8.1 The Client will pay to Cogent the price agreed and set out in any Order Acknowledgement or, where no such price is set out, it shall be Cogent's current price list prevailing at the Delivery Date.
- 8.2 Cogent shall invoice the Client on or at any time after Delivery and the Client shall pay each invoice submitted by Cogent:
- 8.2.1 within 30 days of the date of the invoice or in accordance with any credit terms agreed by Cogent and confirmed in writing to the Client;
 - 8.2.2 in full and in cleared funds to a bank account nominated in writing by Cogent; and
 - 8.2.3 time for payment shall be of the essence of the Contract.
- 8.3 Cogent reserves the right to invoice and require payment for Products in advance of Delivery.
- 8.4 All amounts payable by the Client under the Contract are, where applicable, exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Cogent to the Client, the Client shall, on receipt of a valid VAT invoice from Cogent, pay to Cogent such additional amounts in respect of VAT as are chargeable on the supply of the Products at the same time as payment is due for the supply of the Products.
- 8.5 If the Client fails to make a payment due to Cogent under the Contract by the due date, then, without limiting Cogent's remedies under clause 10, the Client 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 8.5 will accrue each day at 1.5% a month above the Bank of England's base rate from time to time.
- 8.6 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).

9. Limitation of Liability: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 9.1 The restrictions on liability in this clause 9 apply to Cogent's entire liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.2 Nothing in the Contract limits either party's liability which cannot legally be limited, including liability for:
- 9.2.1 death or personal injury caused to any human being by such party's negligence;
 - 9.2.2 fraud or fraudulent misrepresentation; or
 - 9.2.3 any other liability which cannot be excluded or limited by any applicable law.
- 9.3 Subject to clause 9.2 and clause 9.8, Cogent's liability in respect of any losses arising from the death or injury to an animal under or in connection with a Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to:
- 9.3.1 any reasonably incurred veterinary expenses up to a maximum of £1000; and
 - 9.3.2 the lower of:
 - 9.3.2.1 £2,000; or



- 9.3.2.2 the difference in the animal's value immediately before death or injury and its value immediately thereafter.
- 9.4 Subject to clause 9.2, Cogent's liability in respect of any losses arising due to a breach of clause 4.1 which (without prejudice to clause 4.3 and clause 4.4) results in the birth of a calf with a breed or parentage other than specified, shall be limited to the lower of:
- 9.4.1 £1,000;
- 9.4.2 the difference in value between the calf as born and the value, on the date of birth of such calf, of a calf having the correct breed and parentage and assuming that calves of the same sex would have been born regardless of the semen Product or embryo Product used.
- 9.5 Subject to clause 9.2, clause 9.3, and clause 9.4, Cogent's total liability to the Client in respect of all other losses arising under or in connection with a Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to (at the Client's option):
- 9.5.1 replacement of the relevant Products with products which, in Cogent's absolute discretion, are reasonably comparable to the rejected Products; or
- 9.5.2 the price of the rejected Products.
- 9.6 Subject to clause 9.2, Cogent shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any indirect, special or consequential liabilities, losses, charges, damages, costs and expenses suffered by the Client in connection with a Contract howsoever caused and including, without limitation, pure economic loss, loss of anticipated profits, goodwill, reputation, anticipated savings, management time, business receipts or contracts or losses or expenses resulting from third party claims.
- 9.7 Subject to clause 9.2, Cogent shall have no liability to the Client or any other party for:
- 9.7.1 shortages in quantity of Products Delivered unless the Client notifies Cogent in writing of a claim within 7 days of receipt of the Products by the Client;
- 9.7.2 damage to, or loss of the Products in transit (where the Products are carried by Cogent's own transport or by an independent carrier on behalf of Cogent) unless caused by Cogent's negligence or fault and the Client notifies Cogent in writing of a claim within 7 days of receipt of the Products and/or the Delivery Date, whichever is the earlier; and
- 9.7.3 semen Products exploding or floating out of the storage canister and/or the failure of any vacuum device, used by Cogent, or by an independent carrier on behalf of Cogent, when transporting the Products to the Client or the same in relation to any Flask used by the Client. The Client accepts and acknowledges that the very nature of storing semen Products, as the case may be, in liquid nitrogen can result in straws breaking, exploding, or floating and all or some semen Products in such devices being dead or non-viable.
- 9.8 The right for any insurer of the Client to bring a subrogated claim against Cogent shall be excluded.
- 9.9 Nothing in these Terms shall require Cogent to provide veterinary or technical advice to any Client save as may be expressly agreed in writing to be so provided.
- 10. Term and Termination**
- 10.1 The Contract shall commence on the Commencement Date and shall, unless terminated earlier in accordance with this clause 10, terminate automatically upon Cogent's receipt of all outstanding payments for the Products due from the Client under the Contract.
- 10.2 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:



- 10.2.1 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) the party in breach fails to remedy that breach within 30 days after receipt of notice in writing from the other party (with such notice to include full particulars of the breach);
- 10.2.2 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), obtaining a moratorium, 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;
- 10.2.3 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
- 10.2.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

10.3 Without affecting any other right or remedy available to it, Cogent may suspend all further deliveries of Products under the Contract or any other contract between the Client and Cogent if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 10.2.2 to clause 10.2.4, or Cogent reasonably believes that the Client is about to become subject to any of them.

11. Consequences of Termination

11.1 On termination or expiry of the Contract:

- 11.1.1 the Client shall immediately pay to Cogent all of Cogent's outstanding unpaid invoices and interest and, in respect of Products supplied but for which no invoice has been submitted, Cogent shall submit an invoice, which shall be payable by the Client immediately on receipt; and
- 11.1.2 if the Client fails to pay for any Products supplied by Cogent, then Cogent may enter the Client's premises and take possession of them.

11.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

11.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

12. Dispute Resolution

If any dispute arises between Cogent and the Client in connection with any contract between the parties or in connection with any matter concerning the construction or application of the Terms or the rights of Cogent or the Client then, except as expressly provided in the Terms, the parties shall follow the dispute resolution procedure set out in this clause 12. Cogent shall give written notice of the dispute to the Client. The Client shall give written notice to the sales person at Cogent who took the Order to which the dispute relates. On receipt of such written notice, the directors or other senior representatives of the parties with authority to settle the dispute will attempt in good faith to resolve the dispute. If the parties are for any reason unable to resolve the dispute within 30 days of it being referred to them, the parties will attempt to settle it by a half day mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) model mediation procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation, a party must give notice in writing (**ADR Notice**) to the other party to the dispute requesting a mediation. A copy of the request should be sent to the CEDR. The mediation will start not later than 30 days after the date of the ADR Notice. No party may commence any court proceedings in relation to any dispute until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.



13. Force Majeure

Cogent shall not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond Cogent's reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 60 days, either party may terminate the Contract by giving written notice to the other party.

14. General

14.1 **Assignment and other dealings.** The Client 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 without the prior written consent of Cogent.

14.2 Notices.

14.2.1 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).

14.2.2 Any notice shall be deemed to have been received:

14.2.2.1 if delivered by hand, at the time the notice is left at the proper address; or

14.2.2.2 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.

14.2.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14.3 **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 the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 14.3, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

14.4 Waiver.

14.4.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

14.4.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

14.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

14.6 Entire agreement.

14.6.1 The Contract constitutes the entire agreement between the parties.

14.6.2 Each party acknowledges that in entering into the Contract it does not rely on 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.

14.7 Third party rights.



- 14.7.1 The parties acknowledge and agree that each member of the LIC Group shall be entitled to:
- 14.7.1.1 enforce any right conferred upon LIC, LIC UK and/or the LIC Group; or
 - 14.7.1.2 require the Client to comply with the Client's obligations;
- set out in clause 6.4 and clause 7.
- 14.7.2 Save for in accordance with clause 14.7.1, 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.
- 14.7.3 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 14.8 **Variation.** Except as set out in these Terms, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 14.9 **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.
- 14.10 **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.