



COGENT BREEDING LIMITED

TERMS AND CONDITIONS

1. Introduction

- 1.1 These Terms and Conditions ("the Terms") apply to all contracts made between Cogent Breeding Limited of Beachin Stud, Lea Lane, Aldford, Chester, CH3 6JQ, United Kingdom, and Five Star Breeders Limited, 15-16 Pontnewynydd Small Business Centre, Pontnewynydd, Pontypool NP4 6AD trading as "Cogent" ("Cogent") for the supply of goods and/or services by Cogent to any person, firm or company ("the Client"). The Terms will not apply to contracts for the collection, processing and distribution of semen from a Client's bull by Cogent at Beachin Stud, which shall be on separate terms that take precedence over and exclude the Terms.
- 1.2 The Terms exclude any other terms or conditions that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.3 When the Client contacts Cogent to place an order for goods or services ("the Order") it shall constitute an offer by the Client to purchase goods and/or services in accordance with these Terms. The Client acknowledges and agrees that it is solely responsible for ensuring that any order it submits to Cogent is accurate and complete.
- 1.4 Cogent may issue the Client with an order acknowledgement (or in the case of export, a pro forma invoice) in writing (the "Order Acknowledgement"). The Order Acknowledgement will contain details of the goods or services ordered. The Order shall only be deemed to be accepted when Cogent issues an Order Acknowledgement or, where no Order Acknowledgement is given Cogent delivers the goods and/or services in accordance with Clause 3 at which point and on which date the contract for the supply of goods and/or services pursuant to these Terms (the "Contract") shall come into existence.
- 1.5 The Client may cancel an order for goods or services at any time prior to the date of the Order Acknowledgement or, where no Order Acknowledgement has been given, the delivery date. Cogent reserves the right to cancel or refuse to supply all or any part of an Order without any liability to the Client.
- 1.6 The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Cogent which is not set out in the Contract.
- 1.7 Any variation to the Terms must be agreed in writing by a Director of Cogent.
- 1.8 Any quotation given by Cogent shall not constitute an offer, and is only valid for a period of 20 working days from its date of issue.
- 1.9 All of these Terms shall apply to the supply of both goods and services except where application to one or the other is specified.
- 1.10 All contracts between Cogent and the Client will be governed by English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts.
- 1.11 The Terms shall apply to any contract between Cogent and the Client where the Client has had previous notice of the Terms even if the order giving rise to such contract either makes no specific reference to the Terms or refers to other terms or conditions of contract.
- 1.12 Except where expressly stated otherwise, none of Cogent's advertising or other promotional material is intended to constitute any representation or warranty as to its subject matter and no such material shall form part of any contract between Cogent and the Client. The accuracy of any such material is not guaranteed and the Client shall not be entitled to rely upon it for any purpose relating to the observance or performance by Cogent of any obligation under any contract.
- 1.13 Any rights of third parties under the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.



2. Prices and Payment

- 2.1 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.
- 2.2 Subject to Clause 2.3 and Clause 2.4, payment is due within 30 days of the date of Cogent's invoice.
- 2.3 In respect of any goods or services supplied under any purchase scheme (including, without limitation, the HerdPLAN Scheme or similar scheme from time to time), payment is to be made within 30 days of the end of the month in which Cogent's invoice is issued save where the payment is required to be or has been prepaid by standing order or direct debit.
- 2.4 Cogent reserves the right to invoice and require payment for goods and/or services in advance of delivery.
- 2.5 All payments shall be made in full and in cleared funds to a bank nominated by Cogent and time for payment shall be of the essence.
- 2.6 Cogent reserves the right to charge the Client interest on overdue invoices at the rate of 1.5% per calendar month or part thereof from the date the invoice fell due for payment until the date of payment.
- 2.7 The Client will pay Cogent any expenses incurred by Cogent in connection with the recovery of outstanding invoices (including legal costs on an indemnity basis).
- 2.8 The Client shall not be entitled to withhold any payment due to Cogent by reason of any claim by the Client in connection with any contract to which the Terms apply neither shall the Client have any right to set off against any amount due to Cogent any amount claimed by the Client from Cogent.

3. Delivery

- 3.1 Cogent shall use its reasonable endeavours to deliver the goods and services on the dates quoted in the Order Acknowledgement or otherwise agreed but any such dates are estimates only and the time for delivery of any goods or for the performance of any services by Cogent under any Contract shall not be of the essence.
- 3.2 Failure to effect such delivery or performance by any specified date shall not constitute a breach of Contract by Cogent which shall have power to postpone or suspend delivery of any goods or services contracted for any reason whatsoever at Cogent's absolute discretion. The Client shall accept any such delayed or suspended deliveries (whether of goods or services) and shall not be entitled to any compensation in respect thereof.
- 3.3 Subject to Clause 3.4, delivery of goods and services shall be effected when:
 - 3.3.1 the goods (excluding semen) are delivered at the delivery address set out in the Order Acknowledgement or such other address as may be agreed from time to time;
 - 3.3.2 the semen:
 - a. where it is to be held by Cogent pursuant to its client held stock ("CHS") service or as part of its artificial insemination ("AI") service, the day following its arrival at the address set out in Clause 1.1 ("Beachin Stud") or such other local store as Cogent may specify from time to time ("Local Store");
 - b. where it is to be held by the Client or the Client's customer ("Farmer"), on delivery of the semen into the Client's or the Farmer's flask for the storage of animal semen ("Flask") at the delivery address set out in the Order Acknowledgement or such other address as may be agreed from time to time; or
 - 3.3.3 in the case of the services, when the services have been commenced.
- 3.4 If the Client or the Farmer fails to take or accept delivery of the goods (including semen) or services on the date that Cogent tendered the goods or services for delivery then, except where such failure or delay is caused by Cogent's failure to comply with its obligations under the Contract:
 - 3.4.1 delivery of the goods or services shall be deemed to have been completed at 5.30 pm on the date that Cogent tendered the goods or services for delivery;
 - 3.4.2 Cogent shall store any goods until delivery takes place; and



- 3.4.3 Cogent may charge the Client for all related costs and expenses (including insurance) for redelivery and, where applicable, storage.
- 3.5 The risk in any goods shall pass to the Client at the time of delivery in accordance with the Terms.
- 3.6 Title to the goods shall not pass to the Client until Cogent has received payment in full (in cash or cleared funds) for:
 - 3.6.1 the goods; and
 - 3.6.2 any other goods that Cogent has supplied to the Client in respect of which payment has become due.
- 3.7 Until title to the goods has passed to the Client, the Client shall:
 - 3.7.1 hold the goods on a fiduciary basis as Cogent's bailee;
 - 3.7.2 store the goods separately from all other goods held by the Client so that they remain readily identifiable as Cogent's property;
 - 3.7.3 not remove, deface or obscure any identifying mark or packaging on or relating to the goods;
 - 3.7.4 maintain the goods in satisfactory condition; and
 - 3.7.5 give Cogent such information relating to the goods as Cogent may require from time to time, but the Client may resell or use the goods in the ordinary course of its business.
- 3.8 For so long as there shall be any monies due and owing by the Client to Cogent, Cogent, its agents and representatives, shall be entitled to require delivery to it of all goods in the Client's possession or powers of procurement and/or to enter upon any premises where the goods are located or where the Client believes such goods to be stored and to take possession of and re-sell the same. For this purpose, the Client hereby grants Cogent an irrevocable right and licence to enter upon any such premises as aforesaid and this right and licence shall continue to subsist notwithstanding the termination of any Contract for any reason whatsoever and shall be without prejudice to any accrued rights of Cogent.
- 3.9 Cogent may deliver the goods 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. Semen Storage Services

- 4.1 The Client acknowledges and agrees that even where it has not entered into a service level agreement with Cogent, where Cogent provides CHS services to the Client by storing semen that is sourced from Cogent's bulls or is obtained from a bull as part of Cogent's custom selection service ("Cogent Semen") at the Beachin Stud, a Local Store or in the Flasks of one of Cogent's AI technicians, storage charges will be applied. Cogent may at its discretion vary the rate of such charges at any time.
- 4.2 Where the Client wishes Cogent to provide the CHS service by storing semen that is not Cogent Semen ("Third Party Semen") and Cogent agrees to provide such services, then the Client shall:
 - 4.2.1 deliver the Third Party Semen to the Beachin Stud or such other Local Store as Cogent may specify from time to time (the Client acknowledges and agrees that the charges may vary depending upon the location of the store);
 - 4.2.2 in relation to Third Party Semen from a bull that Cogent has not stored before on behalf of the Client, provide Cogent with full details of the registration particulars of each new bull at least fourteen (14) working days before delivery of the Third Party Semen;
 - 4.2.3 in relation to all deliveries of Third Party Semen, the Client shall:
 - a. notify Cogent in writing not less than five (5) working days in advance of the date on which proposes to make the delivery pursuant to clause 4.2.1, in the event that Cogent does not agree such date the Client shall defer delivery until the next date that Cogent may specify and once a delivery date is agreed the Client shall ensure that the delivery of Third Party Semen is made upon that date (and time shall be of the essence in relation to such delivery);



- b. if the Third Party Semen is from the UK, provide a certificate in such form as Cogent may specify from time to time which is signed by a supervising veterinary surgeon and dated no more than ten (10) Working Days prior to the date of delivery;
 - c. if the Third Party Semen originates from outside the UK, such appropriate export health certificates in such form as may be required by applicable or by Cogent from time to time;
 - d. the Client's and/or Farmer's full name and delivery address including postcode and telephone contact number;
 - e. the bull's full name and breed code (e.g. FH number);
 - f. the number of Third Party Semen units together with batch numbers; and
 - g. the Client's instructions in relation to the required service or delivery method for the Third Party Semen.
- 4.2.4 The Client shall ensure that Third Party Semen from different bulls and with different batch numbers is packed in separate containers and is labelled appropriately.
- 4.2.5 The Client represents and warrants to Cogent that:
- a. it owns the Third Party Semen or has all necessary rights, title and authority to the Third Party Semen to accept the terms of the Contract and authorise Cogent to provide the services contemplated pursuant to the Contract;
 - b. the information it provides to Cogent pursuant to this Clause 4 or otherwise in relation to the Third Party Semen and the bulls from which it was obtained is complete and accurate in all respects;
 - c. the Third Party Semen and its delivery to Cogent complies with applicable laws, regulations and codes of practice in force from time to time including, without limitation, the requirements of The Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985 (as amended); and
 - d. the Third Party Semen is correctly packaged and labelled, that such packaging is free from material defects and that the correct quantities are specified in the accompanying paperwork.
- 4.2.6 If any documentation or other information required by Cogent in relation to the Third Party semen pursuant to this Clause 4 or otherwise is incomplete or missing or, in Cogent's reasonable opinion, the Third Party Semen does not comply with the warranties given in Clause 4.2.5, Cogent reserves the right to refuse to accept the delivery of Third Party Semen and to return it to the Client (at the Client expense).
- 4.2.7 Cogent has no obligation:
- a. verify that any information provided by the Client in relation to the Third Party Semen is accurate or complete or to obtain any missing or incomplete information;
 - b. verify the number of units, the batch numbers or the condition of any Third Party Semen that is delivered and it conducts no checks that it is appropriately packed or that such packaging is free from defects.
- 4.2.8 In the event that the Client wishes Cogent to conduct checks of the number and condition of the Third Party semen delivered, Cogent may agree to do so subject to the Client paying such additional charges as Cogent may specify. Where Cogent is not providing such additional service, the Client acknowledges and agrees that Cogent shall have no liability if any units are subsequently discovered to be missing or damaged.
- 4.2.9 The Client hereby indemnifies and holds Cogent harmless against any losses, costs, expenses (including any legal expenses), liabilities or damages that Cogent may suffer as a result of the Client's failure to comply with its obligations pursuant to this Clause 4 including, without limitation, any breach of the warranties in Clause 4.2.5.



- 4.3 In the event that the parties have entered into a service level agreement in relation to the provision of any client held stock or other services services then in the event of any conflict between these terms and the service level agreement the provisions of the service level agreement shall prevail.

5. Semen Distribution Services

- 5.1 Except as expressly stated otherwise, deliveries of semen to the Client or Farmers shall be subject to Clause 3 and the terms of any service level agreement entered into between the Client and Cogent in relation to any specific services that the client may wish Cogent to provide.
- 5.2 Cogent may elect at its absolute discretion to refuse to deal with a particular Farmer. Accordingly the Client agrees that Cogent may at its discretion refuse to accept a delivery of Third Party Semen for delivery to such a Farmer or to refuse to deliver semen to such a Farmer.
- 5.3 Where the Client or the Farmer will be carrying out the AI itself, the semen will be available to the Client or Farmer for delivery no earlier than Cogent's next scheduled delivery to the Local Store provided that the relevant semen has arrived at the Beachin Stud at least fifteen (15) working days prior to such scheduled delivery to the Local Store.
- 5.4 Where Cogent will be providing AI services in relation to Third Party Semen, such services will be available for delivery to the Client or the Farmer, as the case may be, no earlier than ten (10) Working Days after delivery of the Third Party Semen to the Beachin Stud unless otherwise agreed.
- 5.5 Where, after Third Party Semen has been transferred to a Flask of one of Cogent's AI technicians ready for delivery, the contract between the Client and the Farmer for the supply of such Third Party Semen expires or is otherwise terminated, then the Client may, within a period of two (2) months from the date of such cancellation or termination, either:
- 5.5.1 find an alternative local buyer for such Third Party Semen (being a person to whom such Third Party Semen may be supplied without requiring consent or approval from DEFRA or any other governmental body); or
 - 5.5.2 obtain the necessary consents and approvals from DEFRA and any other governmental bodies to enable such Third Party Semen to be transferred for approved quarantine and then on transferred to another buyer (in which case the Client agrees to pay Cogent the relevant amounts specified by Cogent from time to time for the storage and quarantine of such Third Party Semen and for the additional transportation involved);
- failing which, Cogent reserves the right to destroy such Third Party Semen after the expiry of such two (2) month period. The provisions of Clause 9.7 shall apply at all times notwithstanding any such cancellation or termination.
- 5.6 The Client acknowledges that where Cogent is providing the AI service directly to Farmers, a Farmer may on occasion use more straws of Third Party Semen than the Farmer has purchased from the Client. In such circumstances, Cogent will inform the Client at intervals of no more than three (3) months of any such over-use which occurs and the Client agrees to promptly deliver to Cogent sufficient numbers of straws of Third Party Semen from the same bull as shall be necessary to replenish stocks of the Third Party Semen (such replacement shall, for the avoidance of doubt, be free of charge to Cogent). In the event that the Client fails to replenish stocks of the Third Party Semen such that Cogent can no longer perform the relevant Contract, Cogent may at its discretion suspend work on, or terminate, the Contract with the Client until such stocks have been replenished, without incurring any liability to the Client or the Farmer.
- 5.7 From time to time Cogent will inform the Client of any "faulty" straws of Third Party Semen (e.g. broken or blown straws) identified by Cogent's AI technicians at the time of use and the Client undertakes to replace such straws (free of charge to Cogent). Alternatively, Cogent will leave the faulty straws on the Farmer's premises, and it will be the responsibility of the Farmer to notify the Client to replace the straws (free of charge to Cogent).
- 5.8 For the avoidance of doubt, where Cogent delivers semen to a third party AI technician or to a Client or Farmer for use by a third party AI technician any fees charged by such AI technician shall be the



sole responsibility of the Client and the Client shall indemnify and hold Cogent harmless against any claims, costs or expenses that any such third party AI technician may seek to impose upon or recover from Cogent.

6 Quality and Liability. THE CLIENT'S ATTENTION IS DRAWN PARTICULARLY TO THIS CLAUSE

- 6.1 Subject to clause 6.3, Cogent warrants that:
- 6.1.1 on delivery the goods shall conform in all material respects with the description given to them in any Order Acknowledgment or otherwise specified in writing by Cogent; and
 - 6.1.2 on delivery the goods shall, except in relation to embryos and semen, be free from material defects in design, material and workmanship.
- 6.2 Cogent warrants to the Client that the services will be provided using reasonable care and skill.
- 6.3 The Client acknowledges and agrees that:
- 6.3.1 in the case of semen and embryos, 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 or embryo:
 - a. will be fertile and/or viable;
 - b. will result in a viable pregnancy;
 - c. 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
 - d. is free from genetic defects (including without limitation Complex Vertebral Malformation);
 - 6.3.2 in the case of sexed semen, 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 therefrom; and
 - 6.3.3 Cogent shall not be liable for the goods' failure to comply with the warranty in clause 6.1 if:
 - a. the Client makes any further use of such goods after giving a notice in accordance with clause 6.5;
 - b. 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 goods or (if there are none) good trade practice;
 - c. the Client alters or repairs such goods without the written consent of Cogent;
 - d. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - e. storage or transportation by, use, or any act, neglect or default of the Client, Farmer, third party AI technician or any other third party;
 - f. any loss or damage suffered or incurred (or likely to be suffered or incurred) by the Client arising out of or in connection with any:
 - i. defective third party stock, unless Cogent is proven liable;
 - ii. Third Party Semen, where it arrives at Beachin Store in a condition where it is not fit for sale or where it is found to be not viable or of poor quality on use.
- 6.4 The obligations upon Cogent set out in Clause 6.1 and Clause 6.2 shall (subject to the Unfair Contract Terms Act 1977) be in substitution for any other conditions terms warranties or other obligations (contractual or tortious) whether express or implied howsoever which (save to give the effect to the Terms) are hereby excluded.
- 6.5 Subject to clause 6.6, the Client may reject any goods delivered to it that do not comply with Clauses 6.1 and 6.2, provided that written notice of rejection is given to Cogent:
- 6.5.1 in the case of a defect that is apparent on normal visual inspection, within 7 days of delivery; and



6.5.2 in the case of a latent defect in goods other than embryos and semen, within 30 days of delivery.

If the Client fails to give notice of rejection in accordance with this clause, it shall be deemed to have accepted such goods comply with the warranties given in Clause 6.1.

6.6 Subject to Clause 6.7, Clause 6.9 and Clause 6.10:

6.6.1 Cogent shall under no circumstances whatever 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;

6.6.2 Cogent shall have no liability to the Client or any other party for:

- a. shortages in quantity of goods delivered unless the Client notifies Cogent of a claim in writing within seven (7) days of receipt of the goods by the Client. For the avoidance of doubt, Cogent shall in no circumstances be liable for any discrepancy in the quantity of Third Party Semen, unless Cogent has agreed to provide additional service pursuant to clause 4.2.9;
- b. damage to or loss of the goods and/or Third Party Semen (or any part of them) in transit (where the goods and/or Third Party Semen 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 seven (7) days of receipt of the goods and/or Third Party Semen or the scheduled date of delivery, whichever is the earlier;
- c. any loss, destruction or damage to goods and/or Third Party Semen (or any part of them) whilst in Cogent's custody, during transit, storage or otherwise during the performance of the Services save to the extent that it is caused by Cogent's own negligent action or inaction or breach by Cogent of warranties provided to the Client; and
- d. semen straws exploding or floating out of the storage canister and/or the failure of a vacuum device during storage or transportation which results in the loss of all Cogent Semen and/or Third Party Semen, as the case may be, in any one Flask. The Client accepts and acknowledges that the very nature of storing Cogent Semen and/or Third Party Semen, as the case may be, in liquid nitrogen can result in straws breaking, exploding, or floating and all or some semen in such devices being dead.

6.6.3 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:

- a. any reasonably incurred veterinary expenses up to a maximum of £1000; and
- b. the lower of i) £2,000, or ii) the difference in its value immediately before death or injury and its value immediately thereafter;

6.6.4 Cogent's liability in respect of any losses arising due to a breach of clause 6.1.1 which (without prejudice to Clauses 6.3.1 and 6.3.2) results in the birth of a calf with a breed or parentage other than specified, shall be limited to the lower of i) £1,000 or ii) 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 or embryo used; and



- 6.6.5 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):
- a. replacement of the relevant goods with goods which, in Cogent's absolute discretion, are reasonably comparable to the rejected goods;
 - b. re-performance of the relevant services by Cogent at no additional charge; or
 - c. the price of the rejected goods and/or services.

The Terms shall apply to any replacement good and re-performed services.

6.7 The Client acknowledges and agrees that:

6.7.1 there are inherent risks involved in connection with the fertility services provided by Cogent, especially in relation embryo transfer;

6.7.2 no warranties or representations can be given in relation to the viability, fertility, conformity with proofs, absence of genetic defects or the sex of the embryos and semen; 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 except in each case to the extent caused directly by Cogent's failure to comply with its obligation under Clause 6.1 and 6.2 and then only up to the maximum amount specified in Clause 6.6. Therefore, the Client is advised to take out appropriate insurance in relation to such risks.

6.8 The right for any insurer of the Client to bring a subrogated claim against Cogent shall be excluded.

6.9 Nothing in the 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.

6.10 Nothing in the Terms shall exclude or restrict the liability of Cogent for any personal injury or death of any human being arising out of any cause for which Cogent is held by a Court of competent jurisdiction to be liable in negligence.

6.11 Nothing in the Terms shall exclude or restrict the liability of either party for fraud, fraudulent misrepresentation, or deliberate personal repudiatory breaches of any contract or any other liability which it is illegal to exclude or limit or to attempt to exclude or limit.

7. Client's obligations

7.1 The Client shall take all necessary steps to use any goods or services supplied by Cogent in accordance with all applicable laws and regulations and will indemnify Cogent against any loss damage or liability arising out of any failure to take any such steps.

7.2 The Client shall:

7.2.1 comply with Cogent's directions for the storage of semen and embryos, the insemination of all semen (sexed or conventional), and the transfer of all embryos;

7.2.2 represents and warrants to Cogent that any Flask that Cogent is required to deposit semen into, whether it is owned by or under the control of the Client or a Farmer, is safe, is in good condition, is free from defects and is fit for the purpose of storing the semen in liquid nitrogen and has and will continue to have the correct level of liquid nitrogen to maintain the semen in good condition; and

7.2.3 hold Cogent harmless against any loss or damage suffered by the Client or Cogent to the extent such loss or damage arises out of the Client's or Farmer's failure to so comply with clause 7.2.1 or 7.2.2.

7.3 The Client shall:

7.3.1 ensure that any premises to which Cogent is required to deliver are safe and comply 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;

7.3.2 co-operate with Cogent in all matters relating to the provision of the services and supply of the goods;



- 7.3.3 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 provide the services and supply the goods;
 - 7.3.4 provide Cogent with such information and materials as Cogent may reasonably require to supply the goods and services, and ensure that such information is accurate in all material respects;
 - 7.3.5 obtain and maintain (and, as applicable, procure that the Farmer shall obtain and maintain) all necessary licences, permissions and consents which may be required before the date on which the services are to start or the goods are to be delivered;
 - 7.3.6 ensure adequate facilities are provided for any animals to be properly secured for the purposes of the provision of the Services and that if the Client and/or Farmer or their staff are not present the facilities are such that they can be safely used by Cogent's employees, agents or sub-contractor single-handed (including, without limitation, sufficient lighting and health and safety considerations); and
 - 7.3.7 ensure that Cogent's employees, agents or sub-contractors are given access to a supply of clean running water.
- 7.4 Where one of Cogent's employees, agents or sub-contractors:
- 7.4.1 is required to enter a pen containing loose animals in order to provide the services, Cogent shall have no liability whatsoever for the death or injury of any of the animals in the pen which may fall or injure themselves; and
 - 7.4.2 is requested by the Client and/or Farmer to help to secure an animal in readiness for the provision of any service, subject always to Clause 6.9, Cogent shall have no responsibility for any accidents or injuries to animals or people while providing this help. Neither Cogent nor its employees, agents or sub-contractors shall be obliged to provide such help.
- 7.5 In the event that the Client sells Third Party Semen to a third party ("New Owner"), whilst such Third Party Semen is being stored by Cogent, the Client shall:
- 7.5.1 notify Cogent immediately in writing providing Cogent with full details of the New Owner;
 - 7.5.2 ensure that the New Owner is made aware of the terms of the Contract and that any such sale is made subject to the Contract;
 - 7.5.3 paying Cogent's fees for transfer of ownership and/or distribution of the Third Party Semen to the New Owner (unless Cogent agrees otherwise);
 - 7.5.4 insuring the Third Party Semen during transit to the New Owner; and
 - 7.5.5 will indemnify and hold Cogent harmless against any losses, losses, costs, expenses (including any legal expenses), liabilities or damages that Cogent may suffer as a result of the Client's failure to comply with its obligations pursuant to this Clause 7.5.
- 7.6 The attention of the Client is drawn to the provisions of Section 6 of the Health and Safety Act 1974. Cogent will make available upon request information on the design, construction, installation, appropriate lighting levels to perform the services and use of the goods to ensure that as far as is reasonably practicable they are safe and without risk to health. The Client shall take such steps as are necessary to ensure that such information relevant to the services and use of the goods which is appropriate is made available to its servants, agents or any person to whom the Client supplies them and to any other person to whom the Client considers (or reasonably should consider) any such information should be given.

8. Force Majeure

Cogent will not be liable for any failure to perform any contract between Cogent and the Client which is due to any circumstances beyond Cogent's reasonable control including (but not limited to):

- 8.1 Inability to secure labour, materials, supplies or transport; or
- 8.2 Scarcity of power, failure of refrigeration or failure of any biochemical or other necessary process in the evaluation, sorting, extraction, storage, delivery or administration of any goods or services; or



- 8.3 Machine breakdown, fire, storm, flood, act of God, war, civil disturbance, strikes, lockouts or industrial action of any form; or
- 8.4 Disease, illness, death or incapacity of any Cogent bull to provide healthy or suitable semen; or
- 8.5 Any law or governmental regulation affecting the supply of goods or services under the Terms.

9. Termination

- 9.1 Either party shall be entitled forthwith to terminate any Contract by written notice to the other if:
 - 9.1.1 That other party commits any continuing or material breach of any of the Terms or any contract between the parties and in the case of such a breach which is capable of remedy fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied.
 - 9.1.2 An encumbrancer takes possession or a receiver is appointed over any of the property or assets of that other party.
 - 9.1.3 That other party makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or partnership) becomes bankrupt.
 - 9.1.4 That other party goes into liquidation except for the purposes of an amalgamation reconstruction or other reorganisation and in such manner that the Company resulting from the reorganisation effectively agrees to be bound by or assume the obligations imposed upon that other party under the Terms.
 - 9.1.5 That other party ceases or threatens to cease to carry on business.
- 9.2 Any waiver by either party of a breach of any of the Terms shall not be considered as a waiver of any subsequent breach of the same or any other terms.
- 9.3 The right to terminate any contract given by this clause shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.
- 9.4 Any termination or suspension of a Contract in accordance with these Terms shall not relieve the Client of the obligation to pay to Cogent all charges accrued under the relevant Contract in respect of the goods delivered and/or services performed prior to the date of termination.

10. 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 hereunder then, except as expressly provided in the Terms, the parties shall follow the dispute resolution procedure set out in this clause. Cogent shall give notice of the dispute to the Client. The Client shall give notice to the sales person at Cogent who took the order to which the dispute relates. On receipt of such 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 CEDR Solve. 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.

11. Privacy and Data Protection

- 11.1 Cogent is committed to protecting and respecting the Client's privacy. This clause sets out the basis on which any personal data Cogent collects from the Client - or that the Client provides to Cogent - will be processed by Cogent. For the purpose of the Data Protection Act 1998 ("the Act"), the data controller is Cogent. For the purpose of this Clause 11, if the Client is a corporate body or partnership, "the Client" means the Client's partners, officers, employees, consultants and agents.
- 11.2 Cogent may collect and process the following personal data about the Client:



- 11.2.1 the name, address, telephone number and email address of the Client;
 - 11.2.2 if the Client contacts Cogent by any means, Cogent may keep a record of that correspondence;
 - 11.2.3 details of the Client's orders from Cogent;
 - 11.2.4 information that the Client provides by filling in forms which the Client returns to Cogent.
- 11.3 Cogent uses information held about the Client in the following ways:
- 11.3.1 to provide the Client with information, products or services that the Client requests from Cogent or which Cogent feels may interest the Client, where the Client has consented to be contacted for such purposes;
 - 11.3.2 to carry out Cogent's obligations arising from any contracts entered into between the Client and Cogent;
 - 11.3.3 to notify the Client about changes to the goods and services supplied by Cogent.
- 11.4 Cogent may also use the Client's personal data to provide the Client with information about goods and services which are identical or similar to those previously purchased by the Client, and Cogent may contact the Client about these by electronic means, post or telephone.
- 11.5 Cogent may permit selected third parties to use the Client's personal data to provide the Client with information about goods and services which are of the same type as those previously purchased by the Client, and they may contact the Client about these by post. For example, if the Client has purchased semen from Cogent which was originally supplied by a US-based third party supplier, then Cogent may pass the Client's details to that US-based supplier of semen. Cogent will not pass the Client's details to any third parties which provide goods or services that are not are of the same type as those previously purchased by the Client.
- 11.6 Cogent will use all reasonable endeavours to ensure that transfers of the Client's personal data to any selected third party located outside the European Economic Area ("EEA") will comply with the Act. By submitting the Client's personal data, the Client agrees to these transfers of personal data outside the EEA.
- 11.7 Cogent will only contact the Client by electronic means (telephone, e-mail or SMS) with information about goods and services similar to those which were the subject of a previous sale to the Client unless the Client has consented to receiving other marketing materials by such means.
- 11.8 Cogent will only permit third parties to contact the Client by electronic means if the Client has consented to this.
- 11.9 Cogent may disclose aggregated data that does not give any information about identifiable individuals to any of its suppliers (whether located inside or outside the EEA) including the total number of its customers who have bought a supplier's products and, if a supplier is located outside the EEA, the proportion of those customers who have not consented to their personal data being transferred outside the EEA.
- 11.10 Cogent may disclose the Client's personal information to any member of Cogent's group, which means Cogent's subsidiaries, Cogent's ultimate holding company and its subsidiaries from time to time, as defined in section 1159 of the UK Companies Act 2006 and any company owned by the Trustees of the Grosvenor Family Trusts and/or the Duke of Westminster or any member of his family.
- 11.11 Cogent may disclose the Client's personal information to third parties:
- 11.11.1 in the event that Cogent sell or buy any business or assets, in which case Cogent may disclose the Client's personal data to the prospective seller or buyer of such business or assets.
 - 11.11.2 if Cogent or substantially all of its assets are acquired by a third party, in which case personal data held by it about its customers will be one of the transferred assets.
 - 11.11.3 if Cogent is under a duty to disclose or share the Client's personal data in order to comply with any legal obligation, the Terms or other agreements; or to protect the rights, property, or safety of Cogent, Cogent's customers, or others. This includes exchanging information with



other companies and organisations for the purposes of fraud protection and credit risk reduction.

- 11.12 The Client has the right to ask Cogent not to process its personal data for marketing purposes or to disclose the Client's information to any third party for such purposes. The Client can exercise its right to prevent such processing at any time by contacting Cogent at Cogent Breeding Ltd, Lea Lane, Aldford, Chester CH3 6JQ.
- 11.13 The Act gives the Client the right to access information held about the Client. The Client's right of access can be exercised in accordance with the Act. Any access request may be subject to a fee of £10 to meet Cogent's costs in providing the Client with details of the information Cogent holds about the Client.
- 11.14 Any changes Cogent may make to these Terms in the future will be posted on Cogent's website www.cogentuk.com and, where appropriate, notified to the Client by e-mail.
- 11.15 Questions, comments and requests regarding these Terms are welcomed and should be addressed to Cogent Breeding Ltd, Lea Lane, Aldford, Chester CH3 6JQ.