



TERMS & CONDITIONS

- 1.1** These Terms and Conditions (“the Terms”) apply to all contracts made between Cogent Breeding Limited 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, Cogent may issue the Client with an Order Acknowledgement (or in the case of export, a pro forma invoice). The Order Acknowledgement will contain details of the goods or services ordered. A contract between Cogent and the Client will come into existence on the earlier of:
 - 1.3.1** the Client issuing written confirmation of the Order Acknowledgement to Cogent; and
 - 1.3.2** delivery of the Client’s order for goods or services in accordance with Clause 3.
- 1.4** The Client may cancel an order for goods or services at any time prior to the shipping date. Cogent reserves the right to cancel the Client’s order on notice without any liability to the Client if the Client fails to issue written confirmation of the Order Acknowledgement in accordance with Clause 1.3.1 above.
- 1.5** Any variation to the Terms must be agreed in writing by a Director of Cogent.
- 1.6** All contracts between Cogent and the Client will be governed by English Law and the parties agree to submit to the jurisdiction of the English Courts.
- 1.7** 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.
- 1.8** 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.
- 1.9** Any rights of third parties under the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.



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2. Prices and Payment

- 2.1** The Client will pay to Cogent the prices set out in Cogent's current price list prevailing at the date of dispatch of Cogent's Order Acknowledgement.
- 2.2** Subject to Clause 2.3, payment is due within 30 days of the date of the Invoice.
- 2.3** In respect of any goods or services supplied under any purchase scheme (such as the HerdPLAN Scheme or similar scheme or such replacement as there may be from time to time), payment is to be made within thirty days of the end of the month in which the Invoice was 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 charge the Client interest on overdue Invoices at the rate of 1.5% per calendar month or part thereof from the date of Invoice until the date of payment.
- 2.5** 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).
- 2.6** 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** Any delivery dates given to the Client are estimated 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 of that contract and 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.
- 3.2** Delivery of goods or services shall be effected when the goods are unloaded or the services provided at the address(es) notified by the Client to Cogent.
- 3.3** The risk in any goods shall pass to the Client at the time of delivery in accordance with the Terms.



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4. Cogent's Liability. THE CLIENT'S ATTENTION IS DRAWN PARTICULARLY TO THIS CLAUSE

- 4.1** Cogent shall use all reasonable care to provide goods and/or services contracted under the Terms in accordance with all applicable laws and regulations
- 4.2** The obligation upon Cogent set out in Clause 4.1 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.
- 4.3** The Client may reject any goods delivered to it that do not comply with the Client's order, provided that written notice of rejection is given to Cogent:
- 4.3.1** in the case of a defect that is apparent on normal visual inspection, within five working days of delivery; and
 - 4.3.2** in the case of a latent defect, within 90 days of use of the goods. If the Client fails to give notice of rejection in accordance with this clause, it shall be deemed to have accepted such goods.
- 4.4** If the Client rejects goods by written notice under Clause 4.3 then the Client shall be entitled to:
- 4.4.1** require Cogent to replace the rejected goods with goods which, in Cogent's absolute discretion, are reasonably comparable to the rejected goods; or
 - 4.4.2** require Cogent to repay the price of the rejected goods in full. Once Cogent has complied with the Client's request, it shall have no further liability to the Client in respect of the rejected goods' failure to comply with the Client's order. The Terms shall apply to any replacement goods supplied by Cogent.
- 4.5** Cogent will not be liable to the Client or any other party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or for any indirect or consequential loss arising under or in connection with any contract.
- 4.5.1** Whilst Cogent will sort sexed semen to a minimum of 88% purity for female-bearing sperm (or 85% for male-bearing sperm) and 2,000,000 sperm cells per 0.25cc straw it does not warrant that sexed semen attaining those levels will result in a corresponding sex ratio in calves produced therefrom.
 - 4.5.2** Whilst Cogent will use all reasonable endeavours to ensure that bulls whose semen is supplied to the Client shall conform with their current proof (as promulgated by the relevant trade standard body), Cogent shall not be liable to



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the Client for any loss or damage suffered by reason only that any calf produced from such semen shall fail to exhibit all or any of the characteristics disclosed by such proof.

- 4.6** Without prejudice to the foregoing Cogent shall incur no liability to the Client for any loss or damage sustained or to be sustained arising out of the presence in any semen (sexed or conventional) of any genetic defect or disorder (including without limitation Complex Vertebral Malformation).
- 4.7** Cogent will not be liable for any damage to any cow or heifer as the result of pregnancy or parturition or any act or omission undertaken by independent contractors acting for Cogent in the performance of any obligation of Cogent.
- 4.8** Subject to Clauses 4.5 to 4.7, if a court of competent jurisdiction determines that Cogent has failed to use all reasonable care under clause 4.1, Cogent shall pay to the Client such sum in respect of losses arising under or in connection with goods rejected under Clause 4.3.2, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, which it shall in its sole discretion decide. Such sum shall be inclusive of any sums paid under clause 4.4.2 above.
- 4.9** Subject to Clauses 4.5 to 4.7, Cogent's total liability to the Client in respect of losses arising under or in connection with any services performed by Cogent, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to (at the Client's option):
- 4.9.1** re-performance of the services by Cogent at no additional charge; or
 - 4.9.2** the price of such services. The Terms shall apply to any services re-performed by Cogent.
- 4.10** It is the Client's responsibility to insure against any such risks, loss or damage as are specified in this Clause 4.
- 4.11** 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.
- 4.12** 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.
- 4.13** 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.



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5. Client's liability

- 5.1** 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.
- 5.2** The Client shall comply with Cogent's directions for insemination of all semen (sexed or conventional) and will hold Cogent harmless against any loss or damage suffered by the Client in consequence (in whole or in part) of failure to so comply.

6. 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):-

- 6.1** Inability to secure labour, materials, supplies or transport; or
- 6.2** 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
- 6.3** Machine breakdown, fire, storm, flood, act of God, war, civil disturbance, strikes, lockouts or industrial action of any form; or
- 6.4** Disease, illness, death or incapacity of any Cogent bull to provide healthy or suitable semen; or
- 6.5** Any law or governmental regulation affecting the supply of goods or services under the Terms.

7. Termination

Either party shall be entitled forthwith to terminate any contract by written notice to the other if :-

- 7.1** 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.
- 7.2** An encumbrancer takes possession or a receiver is appointed over any of the property or assets of that other party.
- 7.3** 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.



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- 7.4** 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.
- 7.5** That other party ceases or threatens to cease to carry on business.
- 7.6** 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.
- 7.7** 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.

8. 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.

9. Privacy and Data Protection

- 9.1** 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 9, if the Client is a corporate body or partnership, “the Client” means the Client’s partners, officers, employees, consultants and agents.



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- 9.2** Cogent may collect and process the following personal data about the Client:
- 9.2.1** The name, address, telephone number and email address of the Client;
 - 9.2.2** If the Client contacts Cogent by any means, Cogent may keep a record of that correspondence;
 - 9.2.3** Details of the Client's orders from Cogent;
 - 9.2.4** Information that the Client provides by filling in forms which the Client returns to Cogent.
- 9.3** Cogent uses information held about the Client in the following ways:
- 9.3.1** 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;
 - 9.3.2** To carry out Cogent's obligations arising from any contracts entered into between the Client and Cogent;
 - 9.3.3** To notify the Client about changes to the goods and services supplied by Cogent.
- 9.4** 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 post or telephone. 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 or telephone. 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 of the same type as those previously purchased by the Client.
- 9.5** 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.
- 9.6** If the Client is an existing customer, Cogent will only contact the Client by electronic means (e-mail or SMS) with information about goods and services similar to those which were the subject of a previous sale to the Client.



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- 9.7** If the Client is a new customer, and where Cogent permits selected third parties to use the Client's personal data, Cogent (or they) will contact the Client by electronic means only if the Client has consented to this.
- 9.8** 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.
- 9.9** 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, as defined in section 1159 of the UK Companies Act 2006.
- 9.10** Cogent may disclose the Client's personal information to third parties:
- 9.10.1** 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.
 - 9.10.2** 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.
 - 9.10.3** 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.
- 9.11** 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.
- 9.12** 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.
- 9.13** Any changes Cogent may make to its privacy policy in the future will be posted on Cogent's website www.cogentuk.com and, where appropriate, notified to the Client by e-mail.
- 9.14** Questions, comments and requests regarding this privacy policy are welcomed and should be addressed to Cogent Breeding Ltd, Lea Lane, Aldford, Chester CH3 6JQ.