

Genus Breeding Limited Terms and Conditions

For the provision of bovine genetics and bovine related goods and services offered by Genus Breeding Limited. Some services provided by Genus Breeding Limited are intended to be governed by separate written agreements (**Additional Services**). Notwithstanding this intention, in the event that a separate agreement for Additional Services is not entered into by the Customer and Genus, these Conditions shall apply to any such Additional Services as if such Additional Services were specified in an Order.

Your attention is particularly drawn to the following clauses: clause 2 (Permitted Use), clause 16 (Suspension and Termination) and clause 19 (Liability Limitation).

Defined Terms used in these Conditions have the meanings given to them in clause 27.

1 ORDERS

- 1.1 **Placing an Order:** When the Customer places an Order with Genus (whether by telephone, in writing or by some other means) it will be an offer by the Customer to purchase the Goods and/or Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 1.2 **Order acceptance:** The Contract will only come into existence when Genus accepts the Order (which may be in writing or if Genus commences delivery of the Goods and/or Services). All Orders are subject to availability and Genus reserves the right to refuse any Order in whole or in part, without liability.
- 1.3 **Special Terms:** These Conditions and any Special Terms are incorporated in the Contract and contain the entire agreement and obligations between Genus and the Customer in relation to the Goods and/or Services that are the subject of the Contract. In the case of any inconsistency between the Conditions and any Special Terms, the Special Terms shall take precedence.
- 1.4 **Exclusivity of terms:** These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.5 **Literature:** Genus shall use reasonable care and skill in the compilation of the Literature, provided that any figures, statements, descriptions, illustrations, photographs, drawings or any other matters contained in the Literature are not guaranteed to be accurate and are intended merely to represent a general picture of Genus' goods and services and shall not form part of the Contract.
- 1.6 **Buying Groups:** In certain instances, Genus provides Genus Semen and/or Non-Genus Semen and/or Services to Member Farms, at the direction of a Customer acting for and on behalf of a Buying Group. Where any Goods and / or Services are provided to a Member Farm then the terms of this Contract shall apply to such Member Farm as though it were a party to this Contract, and without prejudice to any liability of the Customer to Genus, the Customer shall be responsible for any liability of any Member Farm to Genus resulting from this Contract and all the Goods and / or Services provided hereunder. Any claims a Member Farm may have under this Contract must be brought directly by the Customer against Genus.

2 PERMITTED USE

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

- 2.1 **Restrictions on use:** Goods and Services are approved for animal agricultural use only. Customer's purchase of Good and Services are subject to the General Restrictions and Specific Restrictions set out in this clause 2.
- 2.2 **General Restrictions:**

The Customer shall comply with the following general restrictions on the use of Goods and Services:

- 2.2.1 the purchase of Germplasm is subject to a non-exclusive, non-transferable, non-sub-licensable, limited, revocable licence to use the Genetic Materials;
- 2.2.2 Germplasm may only be used, in whole or in part, in animals wholly owned or controlled by the Customer in the ordinary course of business with the intent to produce offspring for use in a commercial beef or dairy operation;
- 2.2.3 sexed semen may be used solely for single artificial insemination of a single bovine, with the intent to produce a single offspring; and
- 2.2.4 the Customer may not export Genetic Materials or distribute, sell or transfer Genetic Materials to any third party, or use or analyse Genetic Materials for the benefit of any third party, without the prior written consent of Genus.

2.3 Specific Restrictions:

These Specific Restrictions apply in addition to the General Restrictions set out above.

- 2.3.1 **Germplasm:** Germplasm from dairy bulls (of any age or status) [that rank in the top 200 of their breed on the NM\$ or TPI indexes*, top 50 on the \$CM or JPI index* for (G) Status** bulls 18 months and older or otherwise listed as an "Icon Sire" on the ABS Icon Website at www.absglobal.com/services/icon-sires] ("**Icon Germplasm**") may only be used: (a) in females unencumbered by any third party right or interest, including any purchase or breeding rights or restrictions ("**Third Party Restrictions**"), and (b) where any resulting Progeny or Genetic Materials will be owned or controlled by the Customer and unencumbered by Third Party Restrictions. Any embryos the Customer creates (as permitted) from Icon Germplasm ("**Icon Embryos**") may only be used in the Customer's herd and may not be sold, marketed, leased, traded, or otherwise transferred ("**Transferred**") to any party unless permitted in writing by Genus. The Customer must retain unencumbered ownership of any female that is, or could be, pregnant with Progeny from Icon Germplasm or an Icon Embryo until she is no longer pregnant.
- 2.3.2 **Dairy Progeny:** The Customer grants Genus the exclusive and irrevocable right and option to test and purchase any such Progeny or make and acquire Genetic Materials from such Progeny, for so long as the Progeny is owned by the Customer, under the procedures and prices listed on the Global Website. For clarity, Genus has no obligation to purchase Progeny or Genetic Materials. In this section, "**Tested**" means an animal that has received an official Council of Dairy Cattle Breeding (CDCB) evaluation or other evaluation approved by Genus in writing. Animals with no evaluation or an unapproved evaluation shall be considered "**Untested**". In addition to the foregoing:
 - a) male Progeny created from Icon Germplasm may only be: (a) Transferred into the beef supply chain (for example, for sale to a slaughterhouse or feed yard) for the purpose of slaughter ("**Beef Supply Chain**"), either as a steer or with the express agreement from the buyer that it will remain in the Beef Supply Chain, or (b) sold to Genus under its Option, and for no other purpose unless otherwise permitted in writing by Genus. Male Progeny from non-Icon Germplasm may only be Transferred into the Beef Supply Chain or, if Untested, for natural service unless otherwise permitted in writing by Genus. Without limiting the foregoing, the Customer may not create, use, or sell any male Progeny for the purpose of

collecting or selling semen, or collect semen from male Progeny for itself or any other party; and

- b) **female** Progeny (of any age or status) created from Icon Germplasm that: (a) is Untested or (b) is Tested and ranks in the top 2,000 of its breed on the NM\$ or TPI index*, top 500 on the CM\$ or JPI index*, or the top 500 of the PLI, RZG, LPI, PFT, BPI, ISU, NVI or NTM index*** for females six months and older (each an **"Icon Daughter"**) and her Genetic Materials, may only be used in the Customer's herd and cannot be Transferred until the Icon Daughter reaches 24 months of age, unless Transferred to Genus under its Option or otherwise permitted by Genus in writing. During the 24 month period the Customer may not create Progeny from Icon Daughters that would be subject to Third Party Restrictions. The Customer is free at any time to Transfer female Progeny that (a) has been Tested and ranks below the criteria listed under clause 2.3.2(b), or (b) was created from non-Icon Germplasm.

- 2.3.3 **Beef Progeny:** NuEra Germplasm may only be used to create a terminal crossbred offspring (beef x dairy cross or beef x beef cross) that is sold or otherwise transferred into the Beef Supply Chain for the purpose of slaughter. The Customer shall not sell, lease or otherwise transfer to any third-party any male offspring derived from NuEra™ sires, except to slaughter, without the prior written consent of Genus.

** - NM\$ and CM\$ index is published by the United States Council of Dairy Cattle Breeding; TPI index published by Holstein Association USA; JPI index published by the American Jersey Cattle Association. All indices are inclusive of their genomic equivalents.*

*** - (G) Status as defined by NAAB as "genotyped and has semen available for sale and has less than 10 milking daughters". Used in these Terms, (G)Status only applied to the index scope used to determine rank, and an ABS sire is not required to be in (G)Status to be classified as "ICON".*

**** - PLI (UK), RZG (Germany), LPI (Canada), PFT (Italy), BPI (Australian), ISU (France), NVI (Netherlands) and NTM (Scandinavia).*

2.4 **Rights in Genetic Material:** The Customer acknowledges and agrees:

- 2.4.1 all rights in the Genetic Material not expressly granted hereunder are reserved by Genus and all other uses of the Genetic Material are strictly prohibited without the prior written consent of Genus; and
- 2.4.2 all other uses of the Genetic Materials are strictly prohibited without the prior written consent of Genus, including genotyping, sequencing, cloning, reverse sorting, genome editing, genetic analysis or manipulation, use in public or private research programs, production of animals for the purpose of collecting and selling their semen, or use of Germplasm or its Derivatives for any other research or development use.

3 **PRICE AND PAYMENT TERMS**

- 3.1 **Price:** Unless otherwise agreed in writing, the price payable for the Goods and/or Services shall Genus' prices at the list price or rate current at the date of acceptance of the Order. Genus may at its discretion vary its list prices and rates at any time. Any price set out in any quotation or estimate is solely for information and shall not constitute an obligation on the part of Genus that it will deliver the Goods and/or provide the Services at that price.
- 3.2 **VAT:** All prices are exclusive of any applicable VAT which shall be charged at the rate applicable at the date of invoice.
- 3.3 **Payment in advance:** Notwithstanding any other provision of the Conditions, Genus reserves the right to invoice and require payment for Goods and/or Services in advance.

- 3.4 **Payment due date:** Unless otherwise agreed in writing, the price for the Goods and/or Services shall be paid by the Customer to Genus in sterling (in full and in cleared funds, without deduction or set-off) within 30 days of the date of invoice. Time of payment is of the essence of the Contract.
- 3.5 **Right to charge interest:** If the Customer does not pay the whole or any part of the price due to Genus under the Contract by the due date, then the Customer shall pay to Genus interest on the amount outstanding from the due date until the actual date of payment (whether before or after judgement) at the rate of 4% per annum over the base rate of Barclays Bank plc from time to time in force, which shall accrue on a daily basis and be calculated on the basis of a year of 365 days and 4% per annum during any period where the base rate falls below 0%. The parties agree that this constitutes a substantial remedy in terms of the Late Payment of Commercial Debts (Interest) Act 1998. The Customer shall pay the interest together with the overdue amount and any expenses incurred by Genus in connection with the recovery of the outstanding amount (including legal costs).
- 3.6 **Lien and suspension for non-payment:** For as long as any payment due from the Customer to Genus is outstanding, under any Contract or transaction between Genus and the Customer, Genus shall have a lien on any goods or property of the Customer (including any Non-Genus Semen) in its possession and shall, at its discretion, be entitled to retain them and/or suspend work on any Contract or cease provision of any services (including, but not limited to, the provision of liquid nitrogen, AI Services and RMS Services) until such payments have been made, without liability to the Customer or being in breach of the Contract.
- 3.7 **Payments due on termination:** All monies due and payable to Genus under a Contract shall become due immediately on its termination despite any other provision.

4 DELIVERY

- 4.1 **Deemed delivery:** Delivery of Goods and/or provision of the Services shall be deemed to be effected by Genus at the following times:

Goods / Services	Time of delivery/performance
Goods (excluding Genus Semen) if delivered by Genus (or its nominated carrier)	When unloaded at the delivery Site.
Goods (excluding Genus Semen) are collected by or on behalf of the Customer	When the Customer collects the Goods
Genus Semen and/or Non-Genus Semen (as applicable)	The day following the arrival of the semen at the Local Genus Service Centre
RMS Services	The day following the arrival of the semen at the Local Genus Service Centre
Genus DIY Service	On delivery of the semen into a Farm Flask, which will be up to 3 days after the Genus Semen and/or Non-Genus Semen arrives at the Local Genus Service Centre
Services	at the time of completion by Genus of the Services

- 4.2 **No liability for late delivery:** Genus will make every reasonable effort to complete the Contract by the date(s) specified for delivery of Goods and/or Non-Genus Semen and/or provision of

Services but such date(s) are estimates only and the time for performance of the Contract by Genus shall not be of the essence of the Contract. Genus' failure to so deliver and/or provide by the due date or dates shall not constitute a breach of Contract and Genus may wholly or partly suspend deliveries of Goods and/or Non-Genus Semen and/or provision of Services and the Customer shall accept late delivery of such Goods and/or Non-Genus and/or provision of Services and shall not be entitled to any compensation in respect thereof.

- 4.3 **Damage or loss in transit:** Section 32(2) of the Sale of Goods Act 1979 does not apply to the Contract, such that where Genus delivers Goods and/or Non-Genus Semen to a carrier and the Goods and/or Non-Genus Semen are lost or damaged in the course of transit, the Customer may not automatically hold Genus liable for its failure to conclude a reasonable contract with the carrier on behalf of the Customer and/or hold Genus responsible in damages.
- 4.4 **Leaving Goods in a safe place:** Where Genus (or its carrier) is to deliver Goods (including Genus Semen and/or Non-Genus Semen) onto the Customer's farm, Genus or the carrier will leave the Goods in safe place on the farm (in case of semen, in the Farm Flask) if agreed between the parties in advance.
- 4.5 **Licence for Liquid Nitrogen AI Storage Boxes:** where the parties have agreed that Genus will provide a storage box to the Customer at the Customer's farm for storing bovine semen in liquid nitrogen:
- 4.5.1 the Customer hereby permits Genus to place and retain a Box at the Customer's farm, in a suitable position identified by Genus and to enter the Customer's farm and have full access to the Box at all times and for all purposes. Genus and the Customer acknowledge and agree that this agreement operates as a licence and that no relationship of landlord and tenant is hereby created between the Customer and Genus;
 - 4.5.2 the Box shall remain the property of Genus and the Customer confirms it has received, understands and agrees to abide by the AI Storage Guidance Notes on operation of the Box;
 - 4.5.3 Genus shall be entitled to relocate the Box within the Customer's farm, replace the Box or remove the Box at any time and without notice to the Customer;
 - 4.5.4 while Genus retains a Box at the Property, Genus shall at all times keep the Box locked when not in use, comply with any necessary consents and/or legal requirements, maintain the Box in good order and regularly inspect it;
 - 4.5.5 the Customer shall not (and shall not allow anyone else to) move, open or tamper with the Box in any way and the Customer shall use reasonable endeavours to prevent any third party from accessing the Box;
 - 4.5.6 the Customer will immediately inform the Reproduction Management Specialists in the event of the theft or attempted theft of the Box, the Box suffering any damage or destruction, any tampering with the Box and any leakage from the Box;
 - 4.5.7 if Genus ceases to provide the Services to the Customer, Genus shall remove any Box on the Customer's farm within 14 days thereof; and
 - 4.5.8 this clause shall terminate on the later of either Genus ceasing to provide the Services to the Customer or removal of the Box in accordance with clause 4.5.7 above.

5 **INSTALMENTS**

Delivery by instalments: Where Goods and/or Non Genus Semen are to be delivered and/or Services are to be provided by instalments:

- 5.1 each instalment shall be deemed to be a separate Contract and failure by Genus to provide any one or more instalments or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated;
- 5.2 Genus shall be entitled to invoice each instalment as and when delivery and/or provision is made and payment for all delivered and/or provided instalments shall be due notwithstanding the non-delivery and/or non-provision of other instalments or other default by Genus; and
- 5.3 failure by the Customer to make payment by the due date for any one instalment for whatever reason shall entitle Genus to suspend delivery of any further instalments of Goods and/or Non Genus Semen and/or provision of any Services under the Contract, without prejudice to any other right Genus may have under any of the other provisions of the Conditions.

6 SEMEN STORAGE SERVICES

- 6.1 **Non-Genus Semen delivery:** When the Customer delivers Non-Genus Semen to Genus for storage, the Customer:

- 6.1.1 shall deliver Non-Genus Semen to Genus at TCSU only;
- 6.1.2 must inform Genus of the registration particulars of each new bull at least 14 working days before delivering any of the Non-Genus Semen from that new bull to Genus; and
- 6.1.3 must notify Genus not less than five working days in advance of any delivery of the Non-Genus Semen to TCSU (and must achieve delivery within 24 hours of the stated delivery time).

Genus have the right, in its sole discretion, to refuse use of Genus storage facilities for Non-Genus semen.

- 6.2 **Non-Genus Semen Paperwork:** On each occasion when the Customer delivers Non-Genus Semen to Genus the delivery must be accompanied by the following paperwork:

- 6.2.1 if the Non-Genus Semen is from the UK, a certificate in the form required by Genus signed by the Customer's supervising veterinary surgeon and dated no more than ten working days prior to the date of delivery;
- 6.2.2 if the Non-Genus Semen originates from outside the UK, such appropriate export health certificates as are required by Genus;
- 6.2.3 the Customer's full name and delivery address including postcode and telephone contact number;
- 6.2.4 the bull's full name and breed code (e.g. FH number);
- 6.2.5 the number of Non-Genus Semen units together with Batch Numbers; and
- 6.2.6 the Customer's instructions in relation to the required service or delivery method for the Non-Genus Semen (i.e. RMS Services or a Semen Distribution Service) or if the Non-Genus Semen is required to be stored at TCSU.

and Non-Genus Semen from each different bull and Batch Number must be packed in a separate goblet.

- 6.3 **Refusal of Non-Genus Semen:** If a delivery arrives without the above paperwork and/or information or if the Customer does not comply with the requirements of this clause 6 Genus reserves the right to refuse to accept the delivery of Non-Genus Semen and to return it to the

Customer, at the Customer's expense. Genus will not be obliged to obtain nor be responsible for obtaining missing information.

- 6.4 **Regulatory requirements:** The Customer agrees and warrants that it will ensure that it delivers Non-Genus Semen to Genus in full compliance with the requirements of The Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985 (as amended), The (England) Bovine Semen Regulations 2007 and all other relevant statutory provisions, regulations and codes of practice in force from time to time. The Customer agrees that if it is in breach of any such requirements and Genus suffers any loss or cost as a result the Customer will indemnify Genus against such loss and cost.
- 6.5 **Discrepancies:** Genus does not count or check Batch Numbers of Non-Genus Semen when it arrives at TCSU. The Non-Genus Semen is booked onto the Genus computer system in the Customer's name with the quantity and Batch Number of units indicated on the delivery paperwork which accompanies it. Genus will not be held responsible for any discrepancy in the quantity which may be found at a later date. Where the Customer requires that Non-Genus Semen is counted and batch checked there is an additional charge for this service as published in Genus' current retail price list.
- 6.6 **Storage charges:** Where the Customer elects to store Genus Semen or Non-Genus Semen at TCSU, a Genus regional centre or in the RMS Flasks, storage charges will be applied. Genus may at its discretion vary the rate of such charges at any time.
- 6.7 **Change in ownership of Semen:** Where the Customer is not the sole owner of any Genus Semen and/or Non-Genus Semen to be stored by Genus as part of the Services it shall notify Genus in writing of that fact and warrants and represents that he has full authority to accept these Conditions on behalf of the owner or any other joint owner.
- 6.8 **Sale of Non-Genus Semen:** In the event that the Customer sells Non-Genus Semen to a third party ("**New Owner**"), whilst such Non-Genus Semen is being stored by Genus, the Customer shall be responsible for:
- 6.8.1 notifying Genus immediately in writing of that fact and providing Genus with full details of the New Owner in order that Genus can transfer ownership and/or distribute the Non-Genus Semen to the New Owner;
 - 6.8.2 securing the agreement of the New Owner to these Conditions;
 - 6.8.3 paying Genus' fees for transfer of ownership and/or distribution of the Non-Genus Semen to the New Owner, unless Genus agrees otherwise in writing; and
 - 6.8.4 insuring the Non-Genus Semen during transit to the New Owner,

and in the event that the New Owner is to pay Genus' fees referred to in clause 6.8.3 above and the New Owner defaults on payment, Genus reserves the right to charge the Customer in respect of any outstanding fees which are due for payment.

7 SEMEN DISTRIBUTION SERVICES

- 7.1 **Customer requirements:** Where the Customer requires Genus Semen and/or Non-Genus Semen to be distributed to the Customer or a third party(ies), by or on behalf of Genus, the Customer shall provide clear written instructions in writing to Genus 14 days in advance of the relevant Semen Distribution Service.
- 7.2 **Delivery:** Genus will use reasonable endeavours to deliver Genus Semen and/or Non-Genus Semen within the timescales set out in clauses 7.3 and 9 below but time will not be of the essence of this Contract in respect of the Semen Distribution Services. The Customer agrees that Genus will have no liability for any delays in delivery for any reason whatsoever beyond Genus' reasonable control (including any Force Majeure Event).

- 7.3 **No obligation to deal with Customer:** From time to time, Genus may at its absolute discretion notify the Customer that it reserves the right to refuse to deal with a Member Farm. The Customer agrees that Genus may at its discretion refuse to accept a delivery of Genus Semen and/or Non-Genus Semen, for delivery or to refuse to deliver Genus Semen and/or Non-Genus Semen, to a Member Farm.
- 7.4 **Genus DIY Service:** Where the Genus DIY Service is to be used Genus will make the Genus Semen and/or Non-Genus Semen available for delivery to the Customer on Genus' next scheduled delivery date to Local Genus Service Centre falling at least 15 working days after delivery of the Genus Semen and/or Non-Genus Semen to TCSU.
- 7.5 **Genus Distribution Service:** In the case of delivery of Genus Semen and/or Non-Genus Semen, as applicable, (by Genus or an independent carrier) to an Other AI Provider in connection with the Genus Distribution Service, any fees charged by the Other AI Provider acting on behalf of the Customer shall be the sole responsibility of the Customer.
- 7.6 **Customer indemnity:** The Customer understands and acknowledges that this Contract is between Genus and the Customer. Accordingly for the purposes of the Contract, all Non-Genus Semen delivered by the Customer to Genus for delivery via the Semen Distribution Service will be deemed to remain the Customer's property for so long as it remains subject to the Semen Distribution Service.

8 REPRODUCTIVE MANAGEMENT SERVICES

- 8.1 **Request for Services:** The customer can request RMS Services by contacting Genus customer services on cs@genusbreeding.co.uk or via the following phone number: 01270 616616. Subject to availability and the customer signing a RMS Agreement with Genus, Genus will provide the RMS Services.
- 8.2 **No liability for Customer default:** Where the Customer chooses to use the RMS Services, the Customer shall comply with all Genus' directions for insemination of the Genus Semen and Genus shall have no liability whatsoever for any loss or damage suffered by the Customer in consequence (in whole or in part) of any failure to so comply. The Customer shall indemnify Genus in respect of any loss, damage or liability arising out of the Customer's failure to comply with this clause 8.2.

9 ARTIFICIAL INSEMINATION SERVICES

- 9.1 **Request for Services:** If the Customer is based in Great Britain, the Customer can request AI Services by contacting Genus customer services on cs@genusbreeding.co.uk or via the following phone number: 01270 616616. Subject to availability of the Reproduction Management Specialist to provide the AI Services in the Customer's location and acceptance of this Contract by the Customer, Genus will provide the AI Services.
- 9.2 **Delivery:** If Genus has agreed to provide AI Services and Non-Genus Semen is to be used which is at that time stored at TCSU, Genus will deliver Non-Genus Semen to the Customer in a Flask or no later than 10 working days after delivery by the Customer to TCSU, unless agreed otherwise by Genus and the Customer.
- 9.3 **Additional straws:** The Customer acknowledges that, in using the AI Services, a Customer may on occasion use more straws of Non-Genus Semen than he has purchased from the Customer. In such circumstances, Genus will inform the Customer at intervals of no more than three months of any such over-use which occurs and the Customer agrees to promptly deliver to Genus free of charge sufficient numbers of straws of Non-Genus Semen from the same bull as shall be necessary to replenish stocks of the Non-Genus Semen. In the event that the Customer fails to replenish stocks of the Non-Genus Semen such that Genus can no longer perform the relevant Contract, Genus may at its discretion suspend work on, or terminate, the Contract with the Customer until such stocks have been replenished, without incurring any liability to the Customer.

9.4 **Faulty straws:** From time to time Genus will inform the Customer of any “faulty” straws of Non-Genus Semen (e.g. broken or blown straws) identified by Reproduction Management Specialists at the time of use and the Customer undertakes to replace such straws free of charge. Alternatively, Genus will leave the faulty straws on the Customer’s premises, and it will be the responsibility of the Customer to notify the Customer to replace the straws free of charge.

9.5 **No liability for Customer default:** Where the Customer chooses to use the AI Services, the Customer shall comply with all Genus’ directions for insemination of the Genus Semen and/or Non-Genus Semen and **Genus shall have no liability whatsoever for any loss or damage suffered by the Customer in consequence (in whole or in part) of any failure to so comply.** The Customer shall indemnify Genus in respect of any loss, damage or liability arising out of the Customer’s failure to comply with this clause 9.5.

10 FARM FLASKS AND LIQUID NITROGEN AND STORAGE BOXES

10.1 **Maintenance of Farm Flasks:** Where Farm Flasks are stored at the Site, the Customer will ensure that the Farm Flasks are maintained properly, are in good working order and dipped at weekly intervals to check that liquid nitrogen levels are adequate. The Customer shall, and keeps a record of such readings which shall be displayed adjacent to the Farm Flasks.

10.2 **Liquid Nitrogen AI Storage Boxes:** The placement of a liquid nitrogen Box on Customer’s Site will be subject to entry into by the Customer of the AI Storage Box Licence Agreement.

10.3 **Liquid nitrogen service:** Where Genus provides a liquid nitrogen service, in the event of the level of liquid nitrogen reaching the minimum acceptable level between deliveries the Customer shall telephone Genus in order to arrange for a delivery of liquid nitrogen to be made. The Customer understands that no liquid nitrogen service is available in Northern Ireland.

10.4 **No liability for Farm Flasks or low liquid nitrogen:** Genus accepts no liability whatsoever for any loss or damage caused by faulty or defective Farm Flasks or failure of the Customer to advise Genus of low liquid nitrogen levels including any liability for damages caused by such inadequate liquid nitrogen levels, or any failure by the Customer to maintain such Farm Flasks in accordance with the manufacturer’s instructions. In the case of any Farm Flasks which have been purchased from, or supplied to, Customer by Genus, liability for the Farm Flask lies entirely with the manufacturer of the Farm Flask and Genus accepts no liability whatsoever in respect of such Farm Flask.

11 SERVICES AT THE SITE

11.1 **Customer obligations:** Where the Services are to be provided at the Site, the Customer shall:

11.1.1 provide Genus, its employees, agents, consultants and subcontractors, with access to the Site and other facilities as reasonably required by Genus;

11.1.2 prepare the Site for the supply of the Goods and/or Services;

11.1.3 use all reasonable endeavours to ensure that the Genus’ representative and his vehicle and equipment are safe and protected from injury and damage whilst on the Site and shall indemnify (and keep indemnified) Genus against any loss whatsoever arising from any breach by the Customer of his/her obligations under this clause 11.1;

11.1.4 each animal in respect of which the Services are to be provided is clearly and properly identified to the Genus’ representative;

11.1.5 if a Site has a new heifer units, such units must be equipped by Customer with self-locking yokes;

- 11.1.6 segregate any animal identified as a dangerous one by the Genus representative in order to preserve the safety of those on the Site, including, but not limited to the Genus representative;
 - 11.1.7 adequate facilities are provided for such animal to be properly secured for the purposes of the provision of the Services and that if the Customer or their staff are not present the facilities are such that they can be safely used by Genus' representative single-handed (including sufficient lighting and health and safety considerations);
 - 11.1.8 the Genus' representative is given access to a supply of clean running water;
 - 11.1.9 where a Reproductive Management Specialist is required to enter a pen containing loose animals in order to provide the Services, Genus 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
 - 11.1.10 where a Reproductive Management Specialist is requested by Customer to help to secure an animal in readiness for the provision of the RMS Services, Genus shall have no responsibility for any accidents or injuries to animals or people while providing this help. Genus shall not be obliged to provide such help;
- 11.2 **Genus Items:** Where Genus provides RMS Services, the Customer shall permit Genus to store Genus Items on the Customer's farm, by prior agreement with the Customer. The Customer shall at all times keep such Genus Items safe, dry and readily available for the Reproductive Management Specialist to use on their visit to the Customer's farm. In the event that such Genus Items are lost or damaged by the Customer, the Customer shall be liable for their replacement value. The Genus Items will remain entirely the property of Genus at all times.
- 11.3 **Customer failure:** Any failure by the Customer to comply with the obligations in this clause 11 shall entitle Genus' representative at his discretion to refuse to provide the Services in which event the provisions of clauses 16.6 shall apply.
- 12 **HEALTH AND SAFETY**
- 12.1 **Hazard notification:** Genus will promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of the Contract. The Customer shall promptly notify Genus of any health and safety hazards which may exist or arise at the Site and which may affect Genus in the performance of the Contract.
- 12.2 **Safety on Site:** Where the Services are to be performed on the Site, Genus and the Customer contract manager shall undertake a joint risk assessment and take action to minimise the risk. While on the Site, Genus shall comply with any health and safety measures implemented by the Customer in respect of personnel and other persons working on the Site.
- 12.3 **Incidents or near misses:** Genus will notify the Customer in a timely manner in the event of any incident or "near miss" occurring in the performance of the Contract on the Site where that incident or "near miss" causes, or may cause, any personal injury or damage to property which could give rise to personal injury.
- 12.4 **Regulatory compliance:** Genus will take all necessary measures to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other Acts, orders, regulations and Codes of Practice relating to Health and Safety which may apply to staff and/or products in the performance of the Contract.
- 12.5 **H&S queries:** For any queries regarding health and safety, the Customer should contact the Genus contract manager or Genus' health and safety department at Global-HealthandSafety@genusplc.com.

13 CUSTOMER'S OBLIGATIONS, WARRANTIES AND INDEMNITIES

13.1 Customer obligations: The Customer shall:

- 13.1.1 keep and provide to Genus all such records and information as are relevant to the subject matter of the Services and to the provision of the Services by Genus. In particular, but without limitation, the Customer will supply Genus with up to date calving records and details of any new cows entering or leaving the Customer's herd(s);
- 13.1.2 co-operate with Genus in all matters relating to the Services; and
- 13.1.3 obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start or Goods and/or Non-Genus Semen are to be delivered.

13.2 Customer warranties: The Customer warrants, represents and undertakes to Genus that it:

- 13.2.1 will install, operate or otherwise use or store the Goods and/or Non-Genus Semen strictly in accordance with: (a) the restrictions on use in clause 2; (b) the Recommendations for Use; and (c) with all relevant or applicable statutory or other regulations governing the installation, operation, use or storage of the Goods and/or Non-Genus Semen; and
- 13.2.2 has full capacity and authority to enter into and to perform its obligations under the Contract.

13.3 Customer indemnity: The Customer shall indemnify Genus against all and any claims, liabilities, expenses, damages or losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Genus arising out of, related to or in connection with: (a) any claim made against Genus relating to the genetic and general quality, capability, condition and characteristics of Non-Genus Semen which the Customer supplies to them via the Semen Distribution Service; (b) Customer's use of the Goods and/or Services otherwise than in accordance with the Contract; (c) Customer's breach of these Conditions and any warranty in these Conditions; (d) Customer's violation of any third party right, including any Intellectual Property Right, publicity, confidentiality, property or privacy right; (e) Customer's violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including all regulatory, administrative and legislative authorities; and (f) any misrepresentation made by the Customer.

14 TITLE TO GOODS

14.1 Passing of title: Until payment in full of all monies due and owing by the Customer to Genus on any account whatsoever has been received in full (in cash or cleared funds), legal and beneficial ownership of the Goods shall be retained by Genus notwithstanding that the risk in the same shall pass to the Customer at the time of delivery.

14.2 Storage of Goods: Until title to the Goods has passed to the Customer, the Customer shall: (a) hold the Goods on a fiduciary basis as Genus' bailee; (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Genus' property; (c) maintain the Goods in satisfactory condition, store the Goods according to product instructions and keep them insured against all risks for their full price from the date of delivery; (d) notify Genus immediately if it becomes subject to any of the events listed in clause 16.2; and (e) give Genus such information relating to the Goods as Genus may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business (subject to the Customer obtaining any applicable licence, which it shall be the Customer's responsibility to obtain).

14.3 **Recovery of Goods:** If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 16.2, or Genus reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, used or irrevocably incorporated into another product, and without limiting any other right or remedy Genus may have, Genus may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

15 RISK IN GOODS

15.1 **Passing of risk:** The risk in the Goods and any Non-Genus Semen shall pass to the Customer at the time when delivery is deemed to be effected as provided in clause 4.1;

15.2 **Risk in Customer property:** Any property of the Customer in Genus' possession or under its control and all property supplied to Genus or on behalf of the Customer are held by Genus at the Customer's risk.

15.3 **Insurance:** From the time of delivery until ownership of the Goods passes to the Customer in accordance with clause 14, the Customer shall insure the Goods against all risks for their full value with a reputable insurance office to the reasonable satisfaction of Genus. Upon Genus's written request, the Customer shall use all reasonable endeavours to have Genus' interest in the Goods noted on the insurance policy and shall produce the policy of insurance to Genus. The Customer shall hold the proceeds of any claim on the insurance policy on trust for Genus and shall immediately account to Genus with the proceeds.

16 SUSPENSION AND TERMINATION

16.1 **Suspension and termination by Genus:** If the Customer becomes subject to any of the events listed in clause 16.2, or Genus reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Genus, Genus may:

16.1.1 stop any Goods and/or Non-Genus Semen in transit and suspend further deliveries; and/or

16.1.2 suspend provision of any Services under the Contract; and/or

16.1.3 exercise its right of lien under clause 3.6; and/or

16.1.4 exercise its rights under clause 14.3; and/or

16.1.5 immediately terminate the Contract.

16.2 **Suspension and Termination Events:** For the purposes of clause 16.1, the relevant events are:

16.2.1 the Customer fails to give delivery instructions or take delivery of the Goods and/or Non-Genus Semen or make any payment when it becomes due (either under the Contract or under any other Contract or transaction between Genus and the Customer) or commits any other breach of the Contract and fails to remedy the same within seven days of receiving Genus' request in writing so to do;

16.2.2 the Customer is in material breach of an obligation under a Contract and, if the breach is capable of remedy, the Customer has failed to remedy such breach within 14 days after being given notice by Genus in writing to remedy the breach. For the avoidance of doubt, non-payment by Customer of two consecutive invoices shall be deemed to be a material breach under the Contract;

- 16.2.3 a Force Majeure Event occurs entitling Genus to suspend, delay or terminate the Contract in accordance with clause 25; and
- 16.2.4 the Customer is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or suffers any event which could be reasonably considered to indicate that it is insolvent or at serious risk of becoming so in the relatively near future including, insolvent liquidation, a declaration of bankruptcy, the presentation of a bankruptcy or a winding up petition which is not withdrawn, dismissed or discharged within 30 days of its presentation or the appointment of an administrator, receiver or similar over any of its assets or undertaking or the directors of the other party give notice of their intention to appoint an administrator or the other party ceases or threatens to cease to carry on business, or the Customer suffers any event analogous to the those set out in this clause 16.2.4 in any jurisdiction in which it is incorporated or resident.
- 16.3 **Termination for convenience:** The Customer may terminate the Contract for convenience at any time upon not less than three months' notice in writing to Genus. Genus may terminate the Contract at any time upon not less than one month's notice in writing to the Customer.
- 16.4 **Overdue payments:** Any termination or suspension of a Contract in accordance with these Conditions shall not relieve the Customer of the obligation to pay to Genus all charges accrued under the relevant Contract in respect of the Goods delivered and/or Services performed prior to the date of termination or suspension (as applicable) and so that Genus shall have a lien as provided in clause 3.6.
- 16.5 **Consequences of termination:** In the event of termination of a Contract (for whatever reason):
- 16.5.1 if the Goods and/or Services or any part of them have been provided but not paid for, the price shall become immediately due and payable without prejudice to Genus' other rights and remedies;
- 16.5.2 Genus shall within 14 days after the date of termination refund to the Customer any payment made by the Customer under the Contract representing a pre-payment for the Goods delivered and/or Services not yet performed prior to the date of termination but after deduction of any amount owing to Genus by the Customer whether or not under the Contract; and
- 16.5.3 it shall not affect any of the parties' rights and remedies that have accrued as at termination and shall not affect any continuing obligations of the parties under these Conditions. Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.
- 16.6 **Re-scheduling delivery:** If Genus shall be prevented from delivering Goods and/or providing Services in accordance with the Contract as a result of: (a) delay or default on the part of the Customer; or (b) a Force Majeure Event; and the Contract is not terminated in accordance with the other provisions of this clause 16, Genus shall be entitled to reschedule the date(s) for such delivery of Goods and/or provision of the Services to such time(s) as it shall reasonably require taking into account its commitments to third parties. Where the cause is delay or default on the part of the Customer, Genus shall be entitled to make a reasonable charge in respect of the Genus representative's visit to the Site when provision of the relevant Services was so prevented and shall also be entitled to be paid storage charges for the relevant Goods (and notwithstanding clause 13, such Goods shall be at the sole risk of the Customer).
- 16.7 **Disposal of Genus Semen and Non-Genus Semen after termination:** In the event of termination or the payment of any invoice remains outstanding for a period of more than three months, Genus reserves the right (without prejudice to its other rights under the Conditions), where it is in possession of any Genus Semen and/or Non-Genus Semen, to dispose of or destroy such Genus Semen and/or Non-Genus Semen as Genus may see fit (and, if applicable, apply any proceeds towards payment of the monies due to Genus and the costs of disposal). Notwithstanding the foregoing provisions of this clause 16.7, the Customer shall

notify Genus as soon as reasonably practicable in the event that the Customer no longer requires such Genus Semen and/or Non Genus Semen, as the case may be, to be stored and Genus shall dispose of the same.

17 GENUS WARRANTY AND DISCLAIMER

17.1 **Genus warranty:** Genus undertakes to use reasonable care and skill in performance of the Services and/or supply of the Goods and Genus undertakes to comply with all legislation and regulations for the time being in force applicable to Genus' performance of the Contract.

17.2 **Disclaimer:** Notwithstanding the provisions of this clause 16, and having due regard to the inherent risks and uncertainties involved in all biological processes, Genus does not guarantee, warrant or represent that a particular outcome will occur as a result of the supply by Genus of any Goods or the provision by Genus of any of the Services. In particular, but without limitation to the generality of the foregoing, the Customer agrees and acknowledges that:

17.2.1 any information published by Genus in respect of the past performance of any bull or of any bull's progeny does not constitute a representation or warranty by Genus as to the future performance of the bull or its semen or of any of its progeny; and

17.2.2 Genus makes no representation or warranty that any Genus Semen and/or Non-Genus Semen, as the case may be, supplied under the Contract is free from any recessive genes which may lead to genetic abnormalities or contribute to disease, impairment or death.

17.3 **Exclusion of implied warranties:** All conditions, warranties and representations expressed or implied by statute, common law or otherwise in relation to the Services (save for the conditions implied by Section 12 of the Sale of Goods Act 1979 and Section 2 of the Supply of Goods and Services Act 1982) are excluded from the Contract to the fullest extent permitted by law.

18 INTELLECTUAL PROPERTY AND LIABILITY TO THIRD PARTIES

18.1 **Infringement claim:** If at any time it is alleged that the Goods (other than Genus Semen and/or Non-Genus Semen) infringe the rights of any third party or if in Genus' reasonable opinion such an allegation is likely to be made, Genus may at its option and at its own expense: (a) modify or replace the Goods without detracting from the overall performance of the Goods, so as to avoid the infringement; (b) procure for the Customer the right to continue to use the Goods; or (c) repurchase the Goods from Customer at the price paid by the Customer less depreciation at the rate that Genus applies to its own equipment.

18.2 **Conduct of claim:** The Customer shall notify Genus immediately of any claim made or action brought or threatened alleging infringement of the rights of any third party. Genus shall have control over and conduct any such proceedings in such manner as it shall determine. The Customer shall provide all such reasonable assistance as Genus may request. The cost of any such proceedings shall be borne in such proportions as the parties shall determine.

18.3 **IPR ownership:** All right, title and interest in and to any Intellectual Property Rights created by or on behalf of Genus before or during the provision of the Goods and/or Services and all renewals and extensions thereof shall be the property of and vest in Genus, and the Customer assigns, including by way of present assignment of future rights, such Intellectual Property Rights to Genus with full title guarantee and free from all encumbrances and other rights of whatever nature exercisable by any third party, together with the right to take action for any past, present and future damages and other remedies in respect of any infringement or alleged infringement of such Intellectual Property Rights. The Customer waives any moral rights in relation to the Intellectual Property Rights.

19 LIABILITY LIMITATION

The Customer's attention is expressly drawn to this clause 19.

19.1 **Genus liability:** Genus' liability to the Customer (whether for breach of contract, tort (including negligence), breach of statutory duty or otherwise howsoever) under the Contract shall be limited as set out in this clause 19.

19.2 **Non delivery or loss in transit:** Genus shall not be liable to the Customer or any other party for the following unless the Customer notifies Genus in writing within the time period set out below:

non-delivery of Goods and/or Non-Genus Semen or non-performance of Services	seven days of the agreed date for delivery or performance
shortages in quantity of Goods delivered	seven days of receipt of the Goods by the Customer
damage to or loss of the Goods and/or Non-Genus Semen in transit where the Goods and/or Non-Genus Semen are carried by Genus or a carrier on behalf of Genus) where caused by Genus' negligence or fault (or that of the carrier)	seven days of receipt of the Goods and/or Non-Genus Semen or the scheduled date of delivery, whichever is the earlier

19.3 **No liability:** Genus shall not be liable to the Customer or any other party for the following:

19.3.1	(a) the genetic make-up of the Goods; (b) the performance of the Goods, or the characteristics or performance of the offspring of the Germplasm; (c) the absence of pathogens from the Goods; (d) any inaccuracies or errors in the description of the Goods, Services, marketing materials, Website content, or other documentation, Literature, or information related to the Goods and Services;
19.3.2	any discrepancy in the quantity of Non-Genus Semen, unless the Customer requires that the Non-Genus Semen is counted and batched checked on delivery by the Customer at TCSU in accordance with clause 6.5;
19.3.3	any loss, destruction or damage to Goods and/or Non-Genus Semen whilst in Genus' custody, during transit, storage or otherwise during the performance of the Services caused by: (a) a Force Majeure Event; or (b) 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 Genus Semen and/or Non-Genus Semen, as the case may be, in any one flask. The Customer accepts and acknowledges that the very nature of storing Genus Semen and/or Non-Genus Semen, as the case may be, in liquid nitrogen can result in straws breaking, exploding, or floating and that vacuum devices by their very nature can fail, resulting in all or some semen in such devices being dead;
19.3.4	any failure, loss, damage or defects in the Goods and/or Non-Genus Semen resulting from, caused by or occurring during: (a) fair wear and tear; (b) failure by the Customer to follow the Recommendations for Use or other instructions; (c) abnormal or unsuitable conditions of storage; and/or (d) storage or transportation by, use, or any act, neglect or default of the Customer, Other AI Provider or any other third party;
19.3.5	any loss or damage suffered or incurred (or likely to be suffered or incurred) by the Customer arising out of or in connection with any: (a) defective third party stock, unless Genus is proven liable; (b) the presence in any Genus Semen or Non-Genus Semen of any genetic defect or disorder (including Complex Vertebral Malformation); or (c) Non-Genus Semen, where it arrives at TCSU 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;
19.3.6	death, damage or injury to any animal as a result of pregnancy or parturition or any act or omission undertaken by independent contractors acting for the Customer in the performance of any obligation of Genus; and
19.3.7	any other defects in the Goods and/or Non-Genus Semen or Services unless notified to Genus in writing within 14 days of receipt of the Goods by the Customer or performance of the Services or, in the case of RMS Services, within nine months from the time of performance of the Services (except where a claim is made on the grounds that an animal was inseminated with Genus Semen and/or Non-Genus Semen, as the case may be, other than a kind specified by the Customer and agreed by Genus and that fact could not have been reasonably ascertained without taking a blood typing test of the animal's blood, the notification may be given in writing at any time within 12 months of the date of birth) or if the defect would not have been apparent on reasonable inspection, within 12 months of receipt or performance.

19.4 **Evidence:** No claims for shortages in quantity, loss, damage or defects in Goods or Non-Genus Semen will be accepted by Genus under clauses 19.1 or 19.2 unless any Goods or Non-Genus Semen in respect of which a claim is made together with the packaging are preserved intact as received for a period of 21 days from notification of any such claim (or 35 days in the case of an export order) and the Customer hereby agrees to permit Genus full and free rights of access to inspect the Goods and/or Non-Genus Semen and investigate the claim.

19.5 **Remedies:** If liability is accepted by Genus under clause 19.1 or 19.2, or Genus is adjudged to be liable under these Conditions by a court of competent jurisdiction, Genus' only obligation is, at its sole option and in order of preference as set out below:

19.5.1	to replace such Genus Semen and/or Non-Genus Semen, as the case may be, where Genus is able to supply from its own stocks or from the same bull if available; or	
19.5.2	if compliance with clause 19.5.1 is not possible, to replace such Genus Semen and/or Non-Genus Semen, as the case may be, with semen that Genus deems, at its sole discretion, to be of similar genetic merit, if available; or	
19.5.3	if compliance with clauses 19.5.1 or 19.5.2 is not possible, to refund to the Customer whichever is the lower of the purchase price or the current retail price for such semen up to the maximum amount specified in the table below:	
	Type of Semen	Maximum Compensation
	Conventional Dairy	£12 per straw lost or damaged
	Conventional Beef	£10 per straw lost or damaged
	Sexed semen	£30 per straw lost or damaged

19.6 **Caps on Liability:** The following caps will apply to Genus' liability, subject to clauses 19.7 and 19.8:

Genus liability	Limited to
In relation to the death, damage or injury of any animal	the lower of: (a) £3,500; and (b) the difference between the value of the animal immediately

	before the death, damage or injury and its value immediately thereafter.
In relation to the birth of any calf following any supply of Genus Semen and/or Non-Genus Semen (as applicable), or the provision of the RMS Services where the Genus Semen and/or Non-Genus Semen, (as applicable) supplied or used was other than of the kind specified by the Customer and agreed by Genus	the lower of: (a) £1,000; and (b) the difference in value between the calf as born and the value on the date of birth of such calf of a calf produced by use of the correct Genus Semen and/or Non-Genus Semen, as the case may be, (such difference to assume that calves of the same sex would have been born regardless of the semen used)
All other liability of Genus for direct losses whether for negligence, breach of contract, breach of statutory duty, misrepresentation, restitution or otherwise	In aggregate, the lower of: (a) the fees paid and/or due from the Customer in respect of relevant Goods and/or Services supplied under the Contract in the 12 month period preceding the event or earliest of the connected events giving rise to any claim; and (b) £25,000.

19.7 **No indirect or consequential liability:** In no circumstances and notwithstanding any other provision of these Conditions shall Genus be liable for any indirect, special or consequential liabilities, losses, charges, damages, costs and expenses suffered by the Customer howsoever caused and including pure economic loss, loss of anticipated profits, goodwill, revenue, reputation, anticipated savings, management time, business receipts or contracts or losses or expenses resulting from third party claims.

19.8 **No exclusion of liability:** Nothing in these Conditions shall exclude or limit any liability of Genus for: (a) death or personal injury of any human being resulting from Genus' negligence; (b) any liability under Section 2(3) Consumer Protection Act 1987; (c) for fraud or fraudulent misrepresentation; or (d) any other liability which it is illegal to exclude or limit or to attempt to exclude or limit.

20 **INSURANCE**

20.1 **Customer insurance obligation:** The Customer shall obtain sufficient and adequate insurance cover to cover the value of any loss or destruction of or damage to Genus Semen and/or Non-Genus Semen whilst in Genus' custody (for storage or distribution) or otherwise during the performance of the Services. Genus does not insure Non-Genus Semen or Genus Semen which has been purchased by the Customer and remains in Genus Storage Service, Genus Distribution Service or in a Farm Flask. It is the Customer's responsibility to insure against any risks, loss or damage specified in clause 19 (taking into account the limits of Genus' liability specified in that clause).

21 **DATA & SOFTWARE**

21.1 **Software licence:** Some Services allow the Customer to download Software onto the Customer's computer or device, which may update automatically. Genus grants to the Customer a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use the Software, solely in connection with the Services and Goods. To the extent any component of the Software is offered under a third-party sub-license, the Customer must use that Software in compliance with the terms and policies of the third-party Supplier, in addition to these Conditions. Unless the following restrictions are prohibited by law, the Customer agrees not to reverse engineer or decompile the Software or Products, attempt to do so, or assist anyone in doing so.

21.2 **Use of Data:** As part of Genus's effort to continually improve its Goods and Services offerings, employees or distributors may collect Data. By permitting Genus employees or distributors to access Customer's Data, Customer grant Genus a non-exclusive, perpetual, irrevocable,

royalty-free, transferable, worldwide license to use the Data for Genus business purposes. Genus understands that maintaining anonymity of the Customer's Data is important to the Customer's business operations, and will not use the Customer's Data in a way that discloses the Customer's individual identifying information to the public. Any data, reports, information or intellectual property created, generated or discovered by Genus from the Data (individually or in aggregate) is the sole property of Genus, and no ownership rights in such data, reports, information or intellectual property shall transfer to the Customer or any third-party.

21.3 **No IP licence:** No licence or right to use any trademarks, logos and service marks displayed on Goods, websites or elsewhere as authorised by Genus is granted by these Conditions.

22 DATA PROTECTION

22.1 **Data Controllers:** Genus and the Customer acknowledge that each party shall act as a controller (as defined in the Data Protection Legislation) when processing any Customer Personal Data. Accordingly:

22.1.1 the Customer hereby warrants and represents that it has all notices and consents in place to enable the lawful transfer to Genus of all Customer Personal Data (and, if so requested, it shall provide evidence of the same to Genus);

22.1.2 Genus will use any Customer Personal Data in accordance with its own privacy policy in force from time to time; and

22.1.3 each party shall comply with the Data Protection Legislation, as applicable to it and its activities.

22.2 **Data Processing:** To the extent that either party envisages acting as a processor (as defined in the Data Protection Legislation) on behalf of the other party, the parties shall first vary the Contract in accordance with clause 26.3 to ensure appropriate controller-processor provisions are incorporated into the agreement.

23 CONFIDENTIAL INFORMATION

23.1 **Non-disclosure:** During or at any time after a Contract for any reason, the Customer: (a) may not use Confidential Information for any purpose other than the performance of its obligations under the Contract; (b) may not disclose Confidential Information to a person except with the prior written consent of Genus or in accordance with clause 23.2; and (c) shall make every effort to prevent the use or disclosure of Confidential Information, including by restricting access to Confidential Information.

23.2 **Permitted disclosure:** The Customer may only disclose Confidential Information to any of its directors, other officers and employees (each an "**Authorised Recipient**"), to the extent that disclosure is necessary for the purposes of the Contract, provided that before any such disclosure the Customer shall ensure that the Authorised Recipient executes a confidentiality agreement in favour of Genus in a form approved by Genus and the Customer shall ensure that the Authorised Recipient at all times complies with the confidentiality agreement.

23.3 **Exclusions:** This clause 23 does not apply to Confidential Information which: (a) is, at the date of the Contract, or at any time after that date becomes, publicly known other than by the Customer's or Authorised Recipient's breach of these Conditions; (b) can be shown by the Customer to Genus' satisfaction to have been known by the Customer before disclosure by Genus to the Customer; or (c) is required to be disclosed by law or a court of competent jurisdiction.

24 COMPLAINT PROCESS

- 24.1 **How to complain:** If the Customer has a problem with the Goods and/or Services, or anything in the Contract it should contact Genus by emailing customer services via cs@genusbreeding.co.uk
- 24.2 **Customer co-operation:** In the event of a problem or complaint with the Goods and/or Services, Genus will investigate the issue. The Customer shall provide Genus with all necessary co-operation, including providing information, samples, evidence and access to the Customer's personnel and Site to enable Genus to investigate the issue, including as set out in clause 19.4.

25 FORCE MAJEURE

If Genus is prevented, hindered or delayed from completing the Contract either wholly or in part in accordance with the terms of the Contract by a Force Majeure Event then further performance of the Contract shall be suspended for the period during which Genus is so prevented, hindered or delayed, without liability to the Customer and Genus may (a) suspend delivery or performance while the Force Majeure Event continues; (b) apportion goods and/or resources between its customers as it decides; or (c) terminate any Contract so affected with immediate effect by written notice to the Customer and Genus will not be liable for any loss or damage suffered by the Customer as a result.

26 GENERAL

- 26.1 **Interpretation:** (a) headings are for identification and indexing purposes only and they shall not affect the construction or interpretation of these Conditions; (b) words importing the singular meaning shall include the plural meaning and vice versa; (c) references to **a person** shall include natural persons, corporate or unincorporated bodies (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns and references to a **party** shall mean either Genus or the Customer as the context requires and **parties** shall mean both of them; and (d) the word **including, include, includes, in particular** and **for example** will be construed without limitation unless inconsistent with the context and **working days** are all days other than Saturdays, Sundays or English public holidays.
- 26.2 **Notices:** Any notice required or permitted under the terms of these Conditions or required by statute, law or regulation shall be in writing and shall be sufficiently given if forwarded by hand, pre-paid mail or sent by email to the relevant party's registered office or principal place of business or to such other address or email as may from time to time be designated in writing by the relevant party. Any such notice shall be deemed to have been received and given: (a) in the case of delivery by hand, at the time of delivery; (b) in the case of pre-paid mail, two days (or five days if sent by air to another country) after the date of mailing; and (c) in the case of email at the time of transmission if within normal business hours of the addressee and, if not, at 9am on the next working day.
- 26.3 **Variation:** No variation (i.e. change) of the Contract unilaterally by the Customer shall be binding upon Genus unless accepted in writing by Genus, such acceptance to be evidenced by the signature of an authorised representative of Genus.
- 26.4 **Entire Agreement:** Unless otherwise stated in these Conditions, a Contract (and any documents referred to in it) constitutes the entire understanding between the parties in relation to its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of the Contract. No party has relied on any warranty or representation except as expressly set out in the Contract.
- 26.5 **Severability:** Notwithstanding that the whole or any part of any provision of the Conditions may prove to be illegal or unenforceable the other provisions of the Conditions and the remainder of the provisions in question shall remain in full force and effect.

- 26.6 **Third Party Rights:** Nothing in the Conditions is expressly or impliedly intended to confer on any third party any right to enforce any of the provisions of the Conditions pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 26.7 **Assignment:** The Customer shall not assign, encumber, dispose of, declare itself trustee of, or otherwise transfer or divest himself in any way of the Customer's rights under the Contract or the Conditions.
- 26.8 **No waiver:** No forbearance, delay or indulgence by Genus in enforcing the provisions of the Conditions shall prejudice or restrict the rights of Genus nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy conferred upon or reserved for Genus by the Conditions is exclusive of any other right, power or remedy available to Genus and each such right, power or remedy shall be cumulative.
- 26.9 **Law and Jurisdiction:** These Conditions and any dispute or claim arising out of or in connection with these Conditions, their formation or subject matter (including any non-contractual dispute or claim) shall be governed by and construed in accordance with the laws of England. Both parties irrevocably and unconditionally submit to the jurisdiction of the English courts.

27 DEFINITIONS

In these Conditions:

AI Storage Guidance Notes means the guidance notes in the Appendix;

"AI Storage Box Licence Agreement" means the separate terms and conditions to be entered into by the Customer and Genus in relation to a Liquid Nitrogen AI Storage Box;

"Artificial Insemination Services" or "AI Services" means the bovine artificial insemination service offered by Genus in certain regions of Great Britain only and delivered by Reproduction Management Specialists whereby Genus inseminates Customers' cows with Genus Semen and/or Non-Genus Semen in accordance with instructions from the Customer;

"Batch Number" means the number printed onto the semen straw which identifies the semen collection date of that specific straw of semen;

"Box" means a lockable box for storing Genus or Non-Genus Semen in liquid nitrogen, the box to be provided by Genus to the Customer without charge;

"Buying Group" means a group of customers who have agreed between themselves to place Orders collectively on behalf of their Member Farms (but for the purpose of the Contract one of the Member Farms will be the Customer);

"Conditions" means these terms and conditions as amended from time to time in accordance with clause 26.3;

"Confidential Information" means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by Genus to the Customer whether before or after the date of the Contract including information relating to Genus' products, operations, processes, plans or intentions, product information, know-how, trade secrets and other Intellectual Property Rights, market opportunities, business affairs, financial information and other confidential information;

"Contract" means a contract for the provision of Services and/or the supply of Goods by Genus to the Customer, subject to these Conditions;

"Customer" means the person from whom an Order to provide Services and/or supply Goods is received by Genus;

“Customer Personal Data” means Personal Data which is supplied to Genus by the Customer or obtained by Genus in the course of Genus providing the Goods and/or Non-Genus Semen and/or Services;

“Data” means data or information, including herd performance data, from Customer’s technology systems;

“Data Protection Legislation” means: (a) Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (the **“General Data Protection Regulation”**); (b) the Data Protection Act 2018; and (c) any other legislation in force from time to time applicable to the parties relating to either or both privacy or the Processing of Personal Data;

“DEFRA” means the Department for Environment, Food and Rural Affairs;

“Farm Flask” means the farm flask owned and used by a Customer for the storage of animal semen;

“Force Majeure Event” means any event or circumstances beyond Genus’ reasonable control, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party’s), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or pandemics or similar events (human or animal), including notifiable diseases which affects Genus’ provision of the Goods and/or Services, natural disasters or extreme adverse weather conditions, compliance with the law or a governmental order, rule, regulation or direction, any default of suppliers or subcontractors, or any act or omission on the part of the Customer;

“Genetic Material” genetic materials contained in or derived from the Germplasm (in whole or in part) or its progeny, including any DNA, RNA, protein or other molecular or hereditary materials;

“Genus” means Genus Breeding Limited (registered in England with no. 1192037) whose registered office is situated at Matrix House, Basing View, Basingstoke, Hampshire, RG21 4DZ and also, where the context so admits, any authorised representative (whether an employee or sub-contractor) of Genus;

“Genus Distribution Service” means the service whereby Genus delivers Genus Semen and/or Non-Genus Semen to Customers or Genus Semen to the Other AI Provider;

“Genus DIY Service” means the service whereby Genus delivers Genus Semen and/or Non-Genus Semen to the Customer to be held in a Farm Flask(s) in accordance with instructions from the Customer;

“Genus Items” shall mean the items supplied by Genus required for the RMS Service, which Genus shall store at the Customer/Member Farm’s farm including without limitation paint sticks, Reproductive Management Specialist clothing, RMS Flask and its contents;

“Genus Semen” means bovine semen supplied by Genus;

“Germplasm” means bovines, Genus Semen and embryos;

“Goods” means the Goods which Genus is to supply, distribute and/or store under the Contract including, Genus Semen, teat dips, silage additive, udder care products, breeding certificates, liquid nitrogen and any other goods offered for sale by Genus from time to time as specified in the Order;

“Intellectual Property Rights” means: (a) patents, trade marks, service marks, registered designs, applications for any of those rights, trade and business names, unregistered trade marks and service marks, copyrights, know-how, rights in designs and inventions; (b) the sui generis right for the maker of a database to prevent extraction or re-utilisation or both of the whole or a substantial part of the contents of that database, as described in Directive 96/9/EC on the legal protection of databases; (c) rights under licences, consents, orders, statutes or otherwise in relation to a right in paragraphs (a) and (b); and (d) rights of the same or similar effect or nature as or to those in paragraphs (a), (b) and (c), in each case in any jurisdiction;

“Liquid Nitrogen AI Storage Box” means a lockable box for storing bovine semen in liquid nitrogen;

“Literature” means Genus’ catalogues, pamphlets, price lists advertising literature and other published literature;

“Local Genus Service Centre” means a Genus delivery and collection point before onward delivery;

“Member Farm” means an individual member of a Buying Group to whom the Customer instructs Genus in writing to deliver Genus Semen and/or Non-Genus Semen and/or provide Services;

“Non-Genus Semen” means bovine semen owned and supplied by the Customer or by a third party. This definition is not relevant in relation to Customer’s based in Northern Ireland;

“NuEra Germplasm” means Germplasm identified by on the Global Website as NuEra™;

“Order” means an order placed by the Customer for the supply of Services and/or Goods in accordance with clause 1;

“Other AI Provider” means a third party provider of artificial insemination services, as specified by the Customer in writing;

“Personal Data” has the meaning give to that term in the Data Protection Legislation;

“Progeny” means first-generation progeny made from Germplasm;

“Recommendations for Use” means any and all recommendations relating to the storage, handling, application and/or use of the Goods and/or Non-Genus Semen contained in the Literature (or if relevant, the published literature of a Supplier), product labelling or any recommendations made in writing by an authorised representative of Genus (or if relevant, a Supplier);

“Reproductive Management Services” or **“RMS”** means a technical services package offered by Genus in conjunction with the use of Genus Semen and delivered by a Reproduction Management Specialist pursuant to a RMS Agreement and as further described on the Website;

“Reproduction Management Specialists” means an artificial insemination technician providing the AI Service or RMS Service;

“RMS Agreement” means Genus’s terms and conditions relating to the provision of RMS;

“RMS Flasks” means a Reproduction Management Specialist storage flask;

“Semen Distribution Service” means the Genus DIY Service or the Genus Distribution Service as the case may be;

“Semen Storage Service” means the service whereby Genus stores Genus Semen and/or Non-Genus Semen in liquid nitrogen vessels at TCSU, Genus regional centres or in RMS Flasks for Customers for a monthly fee;

“Services” means the services to be provided by Genus under the Contract including any or all of the following: (a) Semen Storage Services; (b) Genus DIY Service; (c) Genus Distribution Service; (d) RMS Service; (e) implantation services; (f) Genetic Management Services as detailed on the Website (g) liquid nitrogen top-ups; and (h) any other services specified in the Order;

“Site” means the premises at which Genus is to provide the Services which may be the Customer’s premises or farm;

“Software” means Genus owned or licensed software;

“Special Terms” means any additional terms and conditions agreed by the parties in writing which relate to the provision of any Goods and/or Services;

“Supplier” means any person who or which supplies the Goods and/or provides the Services to Genus in substantially the form which they are supplied and/or provided to the Customer;

“TCSU” means Genus’ Towcester Central Storage Unit; and

“Website” means <https://www.absglobal.com/uk/> and **“Global Website”** means www.absglobal.com.

APPENDIX

Liquid Nitrogen AI Storage Boxes Customer Guidance Notes

1. Suitability of Box location will be discussed with your Genus RMS Representative.
2. A Box will be located:
 - a. on ground level
 - b. with clear, well-lit, access and egress, free from steps, ladders or stairs, for Genus technicians and Liquid Nitrogen delivery drivers
 - c. in a well ventilated area
 - d. away from access by non-authorised personnel including children
 - e. in an area below 50 degrees centigrade
3. Signage must be displayed at all times to warn that Liquid Nitrogen is present in the area.
4. Any and all concerns regarding the Box must be reported to your Genus RMS Representative immediately and the area kept clear.
5. The Box must only be accessed by authorised Genus personnel.
6. Accidental release measures:
 - a. If it is safe to do so ventilate the area
 - b. Do **NOT** enter the area
 - c. If there are casualties call the emergency services immediately
7. Liquid Nitrogen is a refrigerated gas that if released into the atmosphere may displace oxygen and cause rapid suffocation.
8. Contact with Liquid Nitrogen may cause cryogenic burns or injury.

For further information, please refer to the Material Safety Data Sheet for Liquid Nitrogen.