

**CONTRACT FOR
THE PROVISION OF GOODS AND/OR SERVICES**

Agriculture and Horticulture Development Board

and

Green Seed Portugal

**Contract for the Supply of Representation covering the
Portuguese market on behalf of AHDB**

**(please be advised that due to budgetary constraints, the sub Saharan
element has been removed, therefore any reference to this will be non-
applicable but kept in for transparency of this tender process)**

Ref: 2020-443

AHDB
Stoneleigh Park
Kenilworth
Warwickshire
CV8 2TL

T 024 7669 2051
E info@ahdb.org.uk
W ahdb.org.uk

FORM OF AGREEMENT

THIS CONTRACT IS MADE ON 12TH MARCH, 2021

BETWEEN

Agriculture and Horticulture Development Board, of Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL ('**AHDB**')

AND

Green Seed Portugal, of Rua Soares de Passos, 12, 5º, Lisboa, 1300-537, Portugal ('**the Supplier**')

AHDB and the Supplier are the Parties to the Contract.

WHEREAS

- A. AHDB wishes to acquire general description of goods or services (see Schedule A).
- B. The Supplier is willing to supply the Goods and/or Services in accordance with this Contract.

IT IS HEREBY AGREED

1. The Supplier agrees to supply the Goods and/or Services in accordance with this Contract, including Schedule A and the Appendix.
 - 1.1. Unless otherwise specified, the Supplier shall supply the Goods and/or Services to the Principal Office.
2. Subject to the Supplier's compliance with this Contract including any milestones, AHDB agrees to make payments in accordance with Schedule B.
3. The Parties agree to comply with AHDB's Terms and Conditions for the Purchase of Goods and Services version 2018A ('AHDB Terms' - see Annex), which are incorporated into this Contract.
4. This Contract consists of:
 - this Form of Agreement;
 - Schedule A (Specification, Milestones, page 6), including the Appendix (Specification Details, page 46);
 - Schedule B (Payment and Invoicing, page 8);
 - Schedule C (Contacts, page 10);
 - Annex (AHDB Terms, page 11); and
 - Annex 2 (Data Processing and Protection of Personal Data, page 36,

each of which together with any documents specified therein including the Appendix is incorporated into and forms part of the Contract.

- 4.1. In the case of any conflict or inconsistency, documents shall take precedence in the order in which they appear in Clause 4 above.
- 4.2. Subject to public procurement law, this Contract including the Specification may be amended. Any amendment shall be agreed by the Parties in Writing and shall have no effect unless it has been so agreed.
- 4.3. This Contract and any amendment to it may be executed in counterpart and by the Parties on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.
5. The Contract shall commence or be deemed to have commenced on 31st March, 2021 ('Commencement Date').
 - 5.1. The Supplier shall complete its performance of the Contract not later than 30th March, 2022 ('Completion Date'). There is the option to extend for a further 3 periods of 12 months each, with a potential expiration date of 30th March 2025 if all options to extend are taken up by AHDB. Any extension will require an extension contract, where activities and budgets will be agreed between both parties, and a signed contract will be completed. As mentioned, this relates to Portugal only, the budget has been withdrawn for sub Saharan.
 - 5.2. Any date in this Contract may be amended in advance by agreement in Writing and any dates that are consequently to be amended shall be similarly agreed.
 - 5.2.1. Any amendment to this Contract shall be compliant with the public procurement principles underlying the Public Contracts Regulations 2015.
 - 5.3. Notwithstanding any act of termination or the achievement of the Completion Date, the relevant provisions of this Contract shall remain in effect insofar as is necessary to ensure the performance of all obligations and the satisfaction of all liabilities and to enable the exercise of all rights under the Contract in each case as such shall exist at the time of such act or the Completion Date as appropriate.
6. Subject to Clause 6.4:
 - 6.1. The maximum total liability of each Party under this Contract shall be three times the amount set out in relation to that Party in Clause 6.2.
 - 6.2. In respect of any claim or series of connected claims arising out of the same cause in any year whether arising from negligence, breach of contract or otherwise:
 - (a) the maximum aggregate liability of AHDB shall be the greater of £100,000 or 125% of the cumulative total of the payments identified in Schedule B.
 - (b) the maximum aggregate liability of the Supplier shall be the greater of £1,000,000 or 125% of the cumulative total of the payments identified in Schedule B.

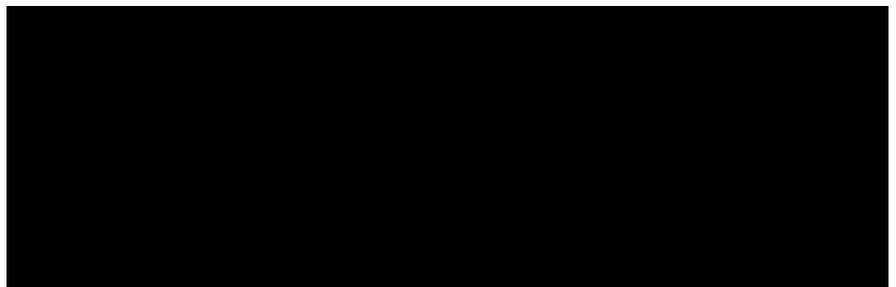
- 6.3. The amounts above may only be amended in Writing and prior to the event in relation to which a claim is made.
- 6.4. Nothing in this Contract shall limit either Party's liability for death or personal injury which may arise as a direct result of that Party's negligent act or omission, or for fraud or fraudulent misrepresentation, or arising as a result of any breach of Data Protection Legislation.
7. For the avoidance of doubt:
 - 7.1. The Supplier's standard terms and conditions for the supply of goods or services do not apply to this Contract except as may be specifically agreed in Writing.
 - 7.2. In the event that the Contract applies only to the provision of Goods, the provisions in the Contract relating only to Services shall not apply.
 - 7.3. In the event that the Contract applies only to the provision of Services, the provisions in the Contract relating only to Goods shall not apply.
 - 7.4. Subject to any specific provision to the contrary, this Contract shall not apply to Research.
8. Any amendments to the Annex to this Contract shall be made as sub-clauses below
 - 8.1. There are no amendments to the Annex.
9. Special Conditions
 - 9.1. Any conditions specified in this Form of Agreement as Special Conditions shall have precedence over any other provision in this Contract.
 - 9.2. There are no Special Conditions.

Signed for and on behalf of the Agriculture and Horticulture Development Board

Signature:

Name of signatory:

Date:

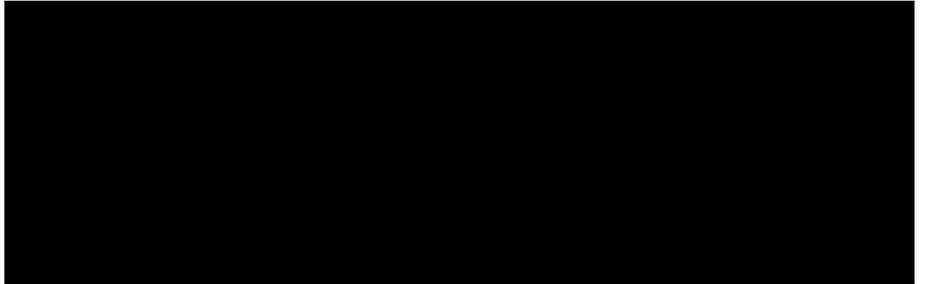


Signed for and on behalf of the Supplier:

Signature:

Name of signatory:

Date:



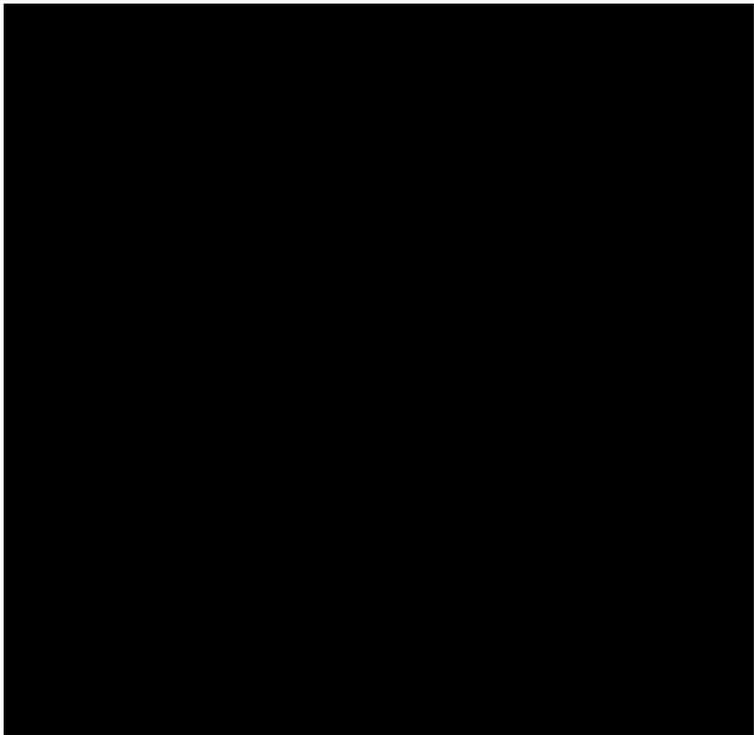
Schedule A Specification, Milestones

1. Specification

- 1.1. The Specification is detailed in the Appendix, page 46.
- 1.2. The Specification is based on:
 - the invitation and/or acceptance by AHDB for the supply of the Goods and/or Services, whether by tender or otherwise, and
 - the Supplier's offer but excluding any of the Supplier's terms and conditions indicated to be imposed thereby except insofar as such terms and conditions do not conflict with any other provision of this Contract.
- 1.3. Any amendment to the Specification agreed in accordance with this Contract shall be deemed to be included in the Appendix.

2. Milestones

- 2.1. The following milestones are agreed:

<i>Date</i>	<i>Milestone</i>
To be advised	
Yearly activity	
To be advised	
To be advised	
Monthly	
Please note: Milestones may be amended/changed throughout the course of the contract to reflect the needs and requirements AHDB and their strategy.	

Date	KPI's and SLA's
	<ul style="list-style-type: none">• [REDACTED]■ [REDACTED]■ [REDACTED]■ [REDACTED] <p>Please note: KPIs may be amended/changed throughout the course of the contract to reflect the needs and requirements AHDB and their strategy.</p>

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Schedule B Payment and Invoicing

1. AHDB shall raise a Purchase Order following its receipt of this Contract signed by the Supplier, the serial number of which shall be notified to the Supplier.
2. Subject to Condition 11.3.1 and any agreed amendment of this Contract in Writing, AHDB will pay the Supplier no more than € [REDACTED] per annum for fees for their services, exclusive of VAT. The budget does not include third party costs associated with the practical delivery of promotional activity e.g. in-store sampling, events etc. Historically, the budget for third party costs has been circa. €100,000 per annum. This will be agreed in advance on an annual basis and is subject to change. Please note: third party costs may change on a yearly basis, dependant on budget and expectations of delivery.

Where third party services and/or materials need to be purchased and the value is over £3000, 3 competitive quotations should be provided to AHDB. AHDB's Authorised Officer shall agree the selection of suppliers before appointment based on quotations provided.

- 2.1. Subject to paragraph 2.1.1 below and compliance with this Contract including any milestones in Schedule A, the Supplier shall invoice AHDB monthly in retard for the Goods and Services supplied.

- 2.1.1. The Supplier shall invoice AHDB as follows for the Goods and Services supplied:

<i>Date</i>	<i>Description</i>	<i>Amount (VAT- exclusive)</i>
	<p>All invoices are to be sent electronically to [REDACTED]</p> <p>Invoices for representation services will be paid quarterly in arrears.</p> <p>Travel expenses, supply of materials and third party costs will be invoiced separately and only with prior agreement in accordance with an agreed contract. Handling fees or mark-ups on third party costs are not permissible.</p> <p>Pro-forma invoice requesting payment in advance of the delivery of goods and/or services may be permissible for significant third party costs only. In all cases, prior agreement is required and sufficient notice must be given.</p>	

- 2.2. If the Contract is amended, any payment schedule relating to this Contract may be adjusted appropriately.
- 2.3. The final claim for payment shall be made within four months of the Completion Date.

3. Invoices

- 3.1. An invoice shall be deemed to be proper if it is submitted in compliance with this Schedule, paragraph 3.2 below is satisfied, and it includes:
 - (a) the serial number of AHDB's Purchase Order;
 - (b) any AHDB reference code notified to the Supplier;
- 3.2. The following information shall be provided contemporaneously with the invoice:
 - (a) A description of the relevant period and activities to which the claim relates;
 - (b) a breakdown of the Goods and Services supplied and any other documentation reasonably required by AHDB to substantiate the invoice.
- 3.3. Unless otherwise agreed, the information required by paragraph 3.2 and a copy of each invoice shall be provided to AHDB's Primary Contact (electronic provision is acceptable).
- 3.4. VAT will only be paid if a proper VAT invoice is submitted. The Supplier must exercise due care not to charge VAT on claims which are not chargeable to VAT.
- 3.5. AHDB's address for submission of invoices will be:

Accounts Payable, AHDB, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL.
- 3.5.1.** Unless otherwise agreed, invoices relating to sums payable by AHDB may be sent by electronic mail in pdf format to [REDACTED]

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Schedule C Contacts

1. Contact information provided by the Parties shall be deemed to be appropriately inserted below.
2. Unless otherwise agreed, the Primary Contact nominated by a Party shall represent the Party for the purposes of this Contract.

AHDB

3. AHDB's address for correspondence and service (excluding invoices, see Schedule B) will be:
AHDB, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL
- 3.1. Communications with AHDB shall be marked for the attention of the person named below as AHDB's Primary Contact.
4. AHDB's Primary Contact will be:
[REDACTED]
[REDACTED]
or such other person as AHDB may nominate.
- 4.1. AHDB's Primary Contact will accept communications by electronic mail ([REDACTED]) and (except for notices and other matters required to be in Writing) by telephone (☎ [REDACTED])

Supplier

5. The Supplier's address for correspondence and service will be:
Rua Soares de Passos, 12, 5º, Lisboa, 1300-537, Portugal
- 5.1. Communications shall be marked for the attention of the person named below as the Supplier's Primary Contact.
6. The Supplier's Primary Contact will be:
[REDACTED]
or such other person as the Supplier may nominate.
- 6.1. The Supplier's Primary Contact will accept communications by electronic mail ([REDACTED]) and (except for notices and other matters required to be in Writing) by telephone (☎ [REDACTED])
7. The Key Personnel if any in relation to the supply of the Goods and/or Services will be:
[REDACTED]
or such other person as the Supplier may nominate.

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Annex AHDB Terms

**Agriculture and Horticulture Development Board
Terms and Conditions for the Purchase of Goods and Services
version 2018A**

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1. DEFINITIONS

1.1. In this Contract the following words and expressions shall have the meanings given to them below, unless the context otherwise requires:

<i>Word Expression</i>	<i>or Meaning</i>
Academic Institution	A body recognised by an EU member state within which it is situated as being constituted for the principal purposes of academic research and tertiary education. Unless otherwise specified any employee, Student, agent and consultant thereof relevant to the supply of the Goods and Services shall be deemed to be part of the Academic Institution. For the avoidance of doubt a subsidiary company or other affiliate of an Academic Institution shall not be an Academic Institution for the purposes of this Contract unless it is a body constituted <i>per se</i> for the principal purposes of academic research and tertiary education;
AHDB	The Agriculture and Horticulture Development Board or any subsidiary thereof;
AHDB Stores	AHDB Stores, Avenue M, Stoneleigh Park, Kenilworth CV8 2LG
AHDB Terms	AHDB's Terms and Conditions for the Purchase of Goods and Services (the content of this Annex);
Annex	This annex incorporated into this Contract under Clause 4;
Appendix	The appendix incorporated into this Contract under Clause 4;
Brexit	means: (a) the United Kingdom (UK) ceasing to be a member state of the European Union (EU) and/or the European Economic Area (EEA) on Exit Day; and/or (b) the variation or end of any transitional, trading or other arrangements from time to time between: (i) the UK and the EU and/or EEA (including during any implementation period and IP Completion Day); and/or (ii) the UK and any other country, group of countries, international organisation, or body (including the World Trade Organization) in contemplation of or (directly or indirectly) in connection with the UK's said cessation of its membership of the EU;
Bribery Act	The Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any relevant guidance or codes of practice issued by a government department concerning the legislation.
Business Hours	Monday to Friday between 9am and 5pm excluding Public and Bank holidays in the UK;
Commencement Date	The date set out in Clause 5 as it may have been amended;

Completion Date	The date set out in Clause 5.1 as it may have been amended;
Confidential Information	<p>Any information which has been designated as confidential by a Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of a Party and all personal data and sensitive data within the meaning of the Data Protection Legislation.</p> <p>Confidential Information does not include information which:</p> <ul style="list-style-type: none"> (a) is public knowledge at the time of disclosure (otherwise than by breach of any obligation of confidentiality); (b) is in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (c) is received from a third party who lawfully acquired it without restriction as to its disclosure; or (d) is independently developed without access to the Confidential Information;
Contract	This written contract between AHDB and the Supplier as described in Clause 4;
Contracted Worker	A person complying with the criteria set out in Condition 6.1;
Contractor's Confidential Information	For the purposes of Condition 16.2.1 only, any information, which has been designated as confidential by AHDB or the Supplier in Writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Supplier, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
DDP	'Delivered Duty Paid' (as defined in the Incoterms [®] rules 2010);
Data Protection Legislation(DPL)	The Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any laws or regulations implementing Directive 95/46/EC (Data Protection Directive) or Directive 2002/58/EC (ePrivacy Directive) and/or the General Data Protection Regulation (EU) 2016/679 (GDPR) (including where applicable, the GDPR as it forms part of the law of England and Wales by virtue of the European Union (Withdrawal) Act 2018) and/or any corresponding or equivalent national laws or regulations, including any amendment or update thereof and/or any new or updated laws and regulations relating to data protection including any judicial or administrative interpretation thereof and any guidance, guidelines, recommendations, codes of practice, approved codes of conduct

or approved certification mechanisms issued by the Information Commissioner, any replacement body or other relevant government department or supervisory authority in relation to such legislation from time to time;

Due Date	Has the meaning given to it in Condition 11.3;
Exit Day	shall have the meaning given to it in the European Union (Withdrawal) Act 2018;
FOI Legislation	The Freedom of Information Act 2000 and similar legislation, as set out in Condition 16.1;
Form of Agreement	The agreement on the supply of goods and/or services, to which the Schedules, Annex, Appendix and other documents are attached;
Goods	Any goods, being tangible moveable items, as described in the Specification that are agreed by this Contract to be purchased by AHDB from the Supplier whether or not in relation to the supply of Services;
Hardship	means a fundamental change in the balance of a party's benefits, position or obligations under this Agreement caused by a legal, technical, political, economic or financial event (or events), the impact of which occur during the term of this Agreement.
Industry	The beef and sheep industry in England; the cereal industry in the United Kingdom; the horticulture industry in Great Britain; the milk industry in Great Britain; the oilseed industry in the United Kingdom; the pig industry in England or the potato industry in Great Britain, in each case as defined in the Agriculture and Horticulture Development Board Order 2008;
Intellectual Property Right	Any patent, utility model, invention, trade mark, service mark, logo, design right (whether registrable or otherwise), application for any of the foregoing, copyright, database right, domain name, Know-How, trade or business name, moral right and other similar right or obligation whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
IP Completion Date	shall have the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
Key Personnel	Any person identified by name or job title as Key Personnel by the Supplier in Schedule C. If no Key Personnel is identified therein, all references to Key Personnel in this Contract shall have no effect;
Know-How	All information not in the public domain held in any form (including that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods);

Latent Defect	Any hidden flaw, weakness or imperfection in the Goods which AHDB could not discover by reasonable inspection at the time of its receipt of the Goods other than any such defect that had been made known to AHDB by the Supplier in Writing prior to the delivery of the Goods;
Party	Each of AHDB and the Supplier;
Primary Contact	A person nominated as such from time to time by a Party in accordance with Schedule C;
Principal Office	AHDB, Stoneleigh Park, Kenilworth, Warwickshire CV8 2TL;
Purchase Order	AHDB's order for the supply of Goods and/or Services under the Contract;
Research	Any experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts and/or any planned research or critical investigation (including any critical topic review) aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services;
Schedule	A schedule incorporated into this Contract under Clause 4;
Services	Any services as described in the Specification that are agreed by this Contract to be purchased by AHDB from the Supplier whether or not in relation to the supply of Goods;
Special Condition	Any provision so specified in the Form of Agreement;
Specification	The specification provided in Schedule A and the Appendix, as it may have been amended;
Supplier	The natural or legal person named in the Form of Agreement as the Supplier. For the avoidance of doubt: <ul style="list-style-type: none"> • the Supplier may comprise more than one person, and • a person undertaking activities on behalf of the Supplier shall not comprise part of the Supplier unless he is named as such in the Form of Agreement;
Writing	Writing on paper, electronic mail, or any other medium that (a) allows information to be addressed to the recipient, (b) enables the recipient to store the information in a way accessible for future reference, and (c) allows the unchanged reproduction of the information stored.

1.2. Unless the context otherwise requires, references in the Contract:

1.2.1. to the Supplier or to AHDB shall, where appropriate, be references to any lawful successor, assignee or transferee;

1.2.2. to the Supplier shall refer to each person constituting the Supplier and where the Supplier consists of more than one person, subject to any allocation of specific work concerning any part(s) of the Contract to a person or any agreement otherwise, the obligations and liabilities of those persons in relation to the Contract shall be joint and several;

- 1.2.3. to Clauses are references to the clauses of the Form of Agreement, to Conditions are references to the terms and conditions of the AHDB Terms and to paragraphs are references to paragraphs in the referring Appendix or Schedule unless otherwise indicated.
- 1.2.4. to 'person' or 'third party' include any individual, body corporate, unincorporated association, company, corporation, firm, partnership, joint venture, public authority, organisation, institution, trust or agency and any other person whether or not having a separate legal personality and shall include subject to these Conditions the successors, transferees and assigns of such a person;
- 1.2.5. to one gender include all genders;
- 1.2.6. to the singular include the plural and vice versa;
- 1.2.7. to 'includes' or 'including' shall mean without limitation;
- 1.2.8. to 'contract' includes any relevant contract however described therein;
- 1.2.9. to any statute, statutory provision or other instrument, is a reference to it as from time to time amended, extended, consolidated or re-enacted and includes all instruments, orders or regulations made under, or deriving validity from such instrument and any instrument having a similar purpose in the relevant part of the United Kingdom.
- 1.3. Any undertaking by a Party not to do an act or thing shall be deemed to include an undertaking not to permit or suffer such act or thing to be done by another person.
- 1.4. The headings and indexes in this Contract are inserted for convenience only and shall be ignored in construing the Contract.

2. TERMS AND CONDITIONS

- 2.1. Subject to the operation of law, these AHDB Terms read with the other provisions of this Contract as any such may be amended shall govern the Contract to the entire exclusion of all other terms or conditions.
 - 2.1.1. Any amendment to this Contract shall have effect only in relation to this Contract and only if agreed in Writing.
 - 2.1.2. These AHDB Terms as they may be amended from time to time apply to all purchases by AHDB of Goods and Services from the Supplier.
 - 2.1.3. The terms of this Contract shall take precedence over all other terms relating to the undertaking of the Project, including those in any Purchase Order. The Parties agree that any terms in any Purchase Order inconsistent with the terms of this Contract will not amend the terms of the Contract.

3. UNDERTAKINGS BY THE SUPPLIER

- 3.1. The Supplier undertakes that:
 - 3.1.1. it has taken reasonable care in developing and/or assessing the Specification, and believes after due consideration that it together with any of its agents and sub-contractors can fully carry out the necessary work;
 - 3.1.2. to the best of its knowledge and belief, the following shall not constitute an infringement of the Intellectual Property Rights of any third party:
 - (a) the supply of the Goods and Services;

- (b) appropriate use by AHDB of the Goods and Services, which shall take into due consideration any relevant advice on such use that the Supplier may provide.
- 3.1.3. it shall take reasonable steps to ensure that there is no conflict of interest as would be likely to prejudice its impartiality and objectivity in supplying the Goods and Services and that upon becoming aware of any such conflict of interest it shall promptly (and in any case within seven days) inform AHDB in Writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as AHDB may reasonably require.
- 3.1.4. the Goods and the Services shall:
 - (a) not be changed without the prior consent in Writing of AHDB; and
 - (b) conform to the Specification, which the Supplier confirms to be accurate, complete in all material respects and not misleading.
- 3.1.5. the Goods shall:
 - (a) be of the best available design, of the best quality and workmanship subject to the Specification and in any case without fault or defect (including Latent Defect);
 - (b) conform with all Laws applicable to such Goods as regards the design, manufacture, quality, packaging, storage, transportation, delivery, labelling, health, safety and environmental standards and use of such Goods which are in force at the time of supply;
 - (c) be complete and fully operational and shall be delivered within the agreed contract price with all parts (including all parts that are not specified in the Specification but which are required for proper operation and also the usual guards, safety devices, special tools etc.);
 - (d) be accompanied by all appropriate information, warnings, instructions and documentation in relation to the safe use, handling, storing, operation, consuming, transportation and disposal of any Goods or parts or materials including paper and/or electronic operation manuals or those available via functioning web link, in particular in relation to hazardous materials which will be clearly identified to AHDB;
 - (e) be free from chlorofluorocarbons, asbestos, dioxins, halons and radiation above natural background levels and any other similarly hazardous substances unless specifically agreed by AHDB; and
 - (f) comply with any applicable national and international quality assurance standards from time to time published under which the Supplier is approved; and/or as reasonably requested by AHDB.
- 3.1.6. the Services shall be performed with all reasonable care, skill and due diligence and in accordance with best professional, technical and scientific knowledge and practice; legislative requirements; generally recognised commercial practices and standards for similar services; and any agreed service levels.
- 3.1.7. it shall at all times during the duration of this Contract and at its own expense:
 - (a) maintain all licences and consents necessary for the performance of its obligations under the Contract;
 - (b) adopt safe working practices and shall not in the performance of the Contract in any manner endanger the safety of or unlawfully or

unreasonably interfere with the convenience of any other person, including employees and/or contractors of AHDB;

- (c) ensure that, in performing its obligations under the Contract, it does not cause any disturbance or damage to the operations and property at the relevant site;
 - (d) comply with AHDB's conditions and policies in relation to any site under the control of AHDB and any code of conduct and code of ethics that AHDB may provide to the Supplier from time to time;
 - (e) assist AHDB (and any person nominated by AHDB) in the investigation of any accident or incident or the resolution of any dispute, which assistance shall include, but not be limited to, making personnel available for interview, providing access to documents and records and providing information reasonably requested by AHDB;
 - (f) notify AHDB as soon as it becomes aware of any breach of laws or any health and safety incident which arises in relation to the Goods or Services (which notification shall not release the Supplier from any liability and/or obligations in respect of such breach, hazard or issue); and
 - (g) co-operate with AHDB in all matters relating to the Goods and Services.
- 3.2. The undertakings given under this Condition 3 shall survive any performance, acceptance or payment pursuant to, or any expiry or termination of, the Contract and shall be extended to any repaired or replacement Goods or substituted or remedial Services provided by the Supplier.

4. PERSONNEL

4.1. The Supplier shall:

- 4.1.1. deploy sufficient personnel of appropriate qualifications, competence and experience to supply the Goods and Services to time and ensure that they are properly managed and supervised;
 - 4.1.2. carry out and ensure that its employees, agents and sub-contractors supply the Goods and Services with reasonable skill, care and due diligence, in accordance with best professional, technical and scientific knowledge and practice, any legislative requirements and applying an appropriate level of integrity.
 - 4.1.3. take reasonable steps to avoid any changes of Key Personnel, but where the Supplier considers it necessary to do so or such Key Personnel withdraw from or become unavailable for any reason, the Supplier shall promptly inform AHDB and shall take appropriate steps to replace the Key Personnel.
- 4.2. All persons employed by the Supplier in the supply of the Goods and Services shall be its responsibility as employer. The Supplier shall be liable to AHDB for any loss AHDB may suffer arising out of the relationship of the Supplier with any person employed by it or its sub-contractors except (i) where this arises as a direct result of any breach of contract, breach of statutory duty and/or negligence on the part of AHDB or (ii) where the Supplier could not reasonably have prevented the act or failure to act leading to the loss.

- 4.3. The Supplier shall on request and subject to any requirements or limitations of the DPL, give AHDB such particulars as it may reasonably require of all persons who are or may be at any time employed in the supply of the Goods and Services.

5. TUPE

- 5.1. The Supplier shall indemnify AHDB for itself and any future provider of services to AHDB against all and any costs, expenses, liabilities, damages and losses arising out of any claim, action, demand or proceeding which arises or is alleged to arise by virtue of the operation of the Transfer of Undertakings (Protection of Employment) Regulations 2006 in connection with the termination of the provision of any of the Services (including without limitation in relation to any dismissal or alleged dismissal of any individual employed or engaged or formerly employed or engaged in the provision of the Services).
- 5.2. The Supplier shall not:
- (a) at any time during the Contract, including any extension, move any staff into the undertaking or relevant part of the undertaking, who do not meet the standards of skill and experience or who are in excess of the number required for the purposes of the Contract; or
 - (b) make any substantial change in the terms and conditions of employment of any staff engaged in supplying the Goods and Services that is inconsistent with the Supplier's established employment and remuneration policies.
- 5.2.1. Where, in the reasonable opinion of AHDB, any change or proposed change in the staff employed in the undertaking or relevant part of the undertaking, or any change in the terms and conditions of employment of such staff would be a material breach of Condition 5.2, AHDB shall have the right:
- (a) to make representations to the Supplier against the change or proposed change;
 - (b) to give notice to the Supplier in accordance with Condition 7 requiring it to remedy the breach within 30 days; and
 - (c) if the Supplier has not remedied the breach by the end of the period of 30 days to the satisfaction of AHDB acting reasonably, to terminate the Contract in accordance with Condition 14.4.
- 5.2.2. If, after due consultation with the Supplier, AHDB reasonably requires and gives the Supplier notice in accordance with Condition 7 that any person is to be removed from involvement in the supply of the Goods and Services, the Supplier shall take reasonable steps to comply with such notice.
- 5.3. Where, in the reasonable opinion of AHDB, the Transfer of Undertakings (Protection of Employment) Regulations 2006 are likely to apply on the termination or expiry of the Contract, the Supplier shall promptly provide on request accurate information relating to the staff who would be transferred under the same terms of employment under those Regulations, including in particular:
- (a) the number of staff who would be transferred, but with no obligation on the Supplier to specify their names;
 - (b) in respect of each of those members of staff their age, sex, salary, length of service, hours of work, overtime hours and rates, any other factors affecting redundancy entitlement and any outstanding claims arising from their employment;
 - (c) the general terms and conditions applicable to those members of staff, including probationary periods, retirement age, periods of notice, current pay

agreements, working hours, entitlement to annual leave, sick leave, maternity and special leave, terms of mobility, any loan or leasing schemes, any relevant collective agreements, facility time arrangements and additional employment benefits.

- 5.3.1. The Supplier shall indemnify AHDB against any claim made against AHDB at any time by any person in respect of any liability incurred by AHDB arising from any deficiency or inaccuracy in information which the Supplier is required to provide under Condition 5.3.
- 5.3.2. AHDB shall take reasonable precautions to ensure that the information referred to in Condition 5.3 is given only to suppliers who have qualified to tender for the future provision of the supply of the Goods and Services and similar goods and services.
- 5.3.3. AHDB shall require any supplier to whom such information is given:
 - (a) to treat the information in confidence,
 - (b) not to communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by AHDB, and
 - (c) not to use it for any other purpose.

6. CONTRACTED WORKERS

- 6.1. This Condition 6 applies in relation to and only in relation to a person satisfying all of the following criteria (a 'Contracted Worker'):
 - 6.1.1. The person must be contracted to undertake Research for or supply goods or services to AHDB for six months or more, directly by this Contract or consequent upon an obligation in this Contract upon the Supplier;
 - 6.1.2. The person must not be on the payroll of AHDB or Meat and Livestock Commercial Services Limited or any UK government department (including a devolved administration) or any agency thereof;
 - 6.1.3. The person must be or have been liable to pay UK income tax and/or national insurance contributions at the appropriate time;
 - 6.1.4. The rate of payment (calculated based on a 7.5 hours working day, and excluding reimbursement of expenses necessarily incurred and VAT) for the provision of such services must be £220 or more per day.
- 6.2. Insofar as the Contracted Worker is liable to be taxed in the UK in respect of consideration received in relation to this Contract, he shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- 6.3. Insofar as the Contracted Worker is liable to National Insurance Contributions (NICs) in respect of consideration received in relation to this Contract, he shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- 6.4. AHDB may, at any time during the term of this Contract, request the Contracted Worker to provide within a specified period information which demonstrates how he complies with Conditions 6.2 and 6.3 above or why those Conditions do not apply to him. For the avoidance of doubt, this does not oblige the Contracted Worker to disclose the amount of income tax or NICs paid.

- 6.4.1. AHDB may supply any information which it receives under this Condition 6.4 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- 6.5. Insofar as the Supplier is a Contracted Worker or the Supplier contracts directly or through any other person with any Contracted Worker for the supply of Research or goods or services in relation to the satisfaction of its obligations under this Contract, this Condition 6 shall apply in relation to each Contracted Worker.
- 6.5.1. The Supplier shall ensure that such contracts:
- (a) contain obligations and other provisions equivalent to those in this Condition 6 so that AHDB is able to take action in relation to each Contracted Worker; and
 - (b) ensure that any information provided by a Contracted Worker to any other person in relation to the operation of this Condition 6 may lawfully be provided to AHDB and be provided by AHDB to the Commissioners of Her Majesty's Revenue and Customs.
- 6.6. Subject to Condition 14.12, AHDB may terminate this Contract if:
- (a) in the case of a request mentioned in Condition 6.4, the Contracted Worker:
 - (i) fails to provide information in response to the request within any specified period or, if no period is specified, within a reasonable time, or
 - (ii) provides information which is inadequate to demonstrate either how he complies with Conditions 6.2 and 6.3 above or why those Conditions do not apply to him; or
 - (b) AHDB receives information which demonstrates that, at any time when Conditions 6.2 and 6.3 apply to the Contracted Worker, he is not complying with those Conditions.
- 6.6.1. Amendments to the Contract under Condition 14.12 may exclude the Contracted Worker but AHDB shall have no liability to the Supplier in relation to any liability thereby falling upon the Supplier.

7. CONTACTS AND COMMUNICATION

- 7.1. AHDB and the Supplier shall each nominate a Primary Contact as its principal point of contact.
- 7.1.1. The Supplier shall nominate any Key Personnel.
- 7.1.2. Any such nomination shall be in Writing to the other Party.
- 7.2. The Primary Contacts and the Key Personnel shall communicate as necessary to facilitate the performance of this Contract.
- 7.3. Contact and communication information relating to each Party is set out or deemed to be set out in Schedule C.
- 7.3.1. Unless otherwise agreed, any communication between the Parties concerning the Contract shall be in English.

Notices

- 7.4. Any notice required to be given shall:
- 7.4.1. be in permanent written form and signed by or on behalf of a duly authorised officer of the Party giving notice;

- 7.4.2. be deemed duly served if:
- (a) given to the Representative of the Party to be served with the notice (the 'receiving Party'), or
 - (b) left at, or sent by pre-paid first class post (or by air mail if one Party is outside the UK) or by facsimile transmission to, the address of the receiving Party specified in Schedule C.
- 7.4.3. be deemed to have been received by the receiving Party:
- (a) on the first Working Day after the day on which it is given to the Representative of, or left at the address of, that Party;
 - (b) on the third Working Day after the day on which it is posted save that if the notice is sent by air mail, it shall be deemed to have been so received on the fifth Working Day after the day on which it is posted;
 - (c) on the first Working Day after the day on which a facsimile is transmitted.
- 7.5. In proving the serving and receipt of a notice it shall be sufficient to prove that:
- (a) the notice was given or left in accordance with Condition 7.4.2; or
 - (b) the envelope containing the notice was correctly addressed and was posted; or
 - (c) the facsimile was correctly addressed and was confirmed by the recipient equipment as having been received with all pages successfully transmitted.

8. OPERATION OF THE CONTRACT

- 8.1. The Supplier shall properly manage and monitor the supply of the Goods and Services and inform AHDB in Writing without undue delay if any aspect of the Contract is not being or is unable to be performed.
- 8.1.1. The Supplier shall provide all the facilities necessary to supply the Goods and Services.
- 8.1.2. Any materials or processes used in connection with the supply of the Goods and Services shall be in accordance with standards set out in the Contract.
- 8.2. The Supplier shall supply the Goods and Services to AHDB in accordance with the Specification and ensure that its employees, agents and sub-contractors act with reasonable skill, care and diligence.
- 8.3. The Supplier shall take reasonable steps to follow best professional or good industry practice and ensure compliance with all applicable laws, codes of practice, guidelines and any Standards set out in the Specification, by itself and its servants, employees, agents and sub-contractors.
- 8.4. The Supplier confirms that:
- 8.4.1. it will comply with best practice and relevant provisions, whether statutory or otherwise, relating to health and safety at work;
 - 8.4.2. it will comply with the DPL;
 - 8.4.3. it will not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010;
 - 8.4.4. it will comply with the Bribery Act.
- 8.5. The Supplier confirms that in entering into the Contract it has not:

- 8.5.1. colluded with any competitor in formulating its offer to supply the Goods and Services except insofar as any such competitor is a named participant in a consortium in relation to supply of the Goods and Services of which the Supplier is also a participant;
- 8.5.2. canvassed any person associated with AHDB or otherwise sought improperly to improve its competitive position in relation to this Contract;
- 8.5.3. done or omitted to do anything that would result in a breach of the Bribery Act 2010.
- 8.6. Except to the extent permitted in this Contract, the Supplier shall treat all Confidential Information belonging to AHDB as confidential and shall not disclose any such Confidential Information to any other person without the prior consent in Writing of AHDB, except under an obligation of confidentiality upon such persons and to such extent as may be necessary for the performance of the Supplier's obligations under the Contract.
 - 8.6.1. Each Party may discuss the Contract and its performance with any adviser or consultant subject to appropriate conditions of confidentiality.
- 8.7. The Supplier shall promptly and in any case not later than one week of its becoming aware of any circumstances likely to adversely affect the supply of the Goods and Services bring these matters to the attention of AHDB in Writing and the Primary Contacts shall reasonably agree any consequential action that shall be taken.
- 8.8. Each Party shall, subject to being informed reasonably in advance, attend all meetings specified in the Contract or otherwise reasonably arranged by either Party for the discussion of matters concerned with the supply of the Goods and Services.
- 8.9. At any time prior to delivery of the Goods to AHDB or completion of the Services AHDB (or its nominee) shall have the right to inspect and test the Goods or inspect the work being carried out in performance of the Services. If at the date of the inspection the Goods are located or the Services are being performed at the premises of the Supplier or its associated companies or sub-contractors, the Supplier shall procure that AHDB or its nominees have access on reasonable notice and shall ensure that the inspectors shall receive such information and assistance as they reasonably request in relation to their inspection or testing of the Goods or Services.
 - 8.9.1. If the results of such inspection or testing cause AHDB to be of the opinion (acting reasonably) that the Goods and/or Services do not conform or are unlikely to conform to the Specification, or that the Goods and/or Services may not be delivered to time, AHDB may at its option:
 - (a) inform the Supplier in Writing, following which the Supplier shall immediately take such action as is necessary to ensure conformity or timely delivery as the case may be;
 - (b) reject the Goods or Services; or
 - (c) require and witness further testing and inspection.
 - 8.9.2. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and the Services and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

9. SUB-CONTRACTING

- 9.1. Without prejudice to the provisions of Annex 2, where a Supplier enters into a Sub-Contract for the purpose of performing its obligations under the Contract, it shall ensure that provisions are included *mutatis mutandis* in the Sub-Contract which:
- (a) have the same effect as Conditions 11.3, 11.3.1 and 11.3.2; and
 - (b) require the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect *mutatis mutandis* as Conditions 11.3, 11.3.1 and 11.3.2.

In this Condition 9.1, 'Sub-Contract' means a contract between two or more suppliers, at any stage of remoteness from AHDB in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

- 9.2. The Supplier shall ensure that any sub-contractor complies with the terms and conditions of this Contract insofar as they are applicable and shall provide AHDB on request with a copy of any sub-contract.
- 9.2.1. Where the Supplier becomes liable to pay interest payments to a sub-contractor, AHDB will not reimburse those costs unless they are incurred due to the negligence or default of AHDB.
- 9.3. The appointment of sub-contractors shall be subject to the prior approval of AHDB which shall not be unreasonably delayed or refused.
- 9.3.1. Any sub-contract shall not relieve the Supplier of its obligations under the Contract and the Supplier shall remain liable to AHDB for any performance or non-performance of such obligations.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. Unless otherwise agreed, all Intellectual Property Rights arising from the supply of the Goods and Services to AHDB together with any other information, knowledge, idea, design, material, or invention and any expression of any idea created by the Supplier (or its agents or employees) shall be the exclusive property of AHDB.
- 10.2. The Supplier shall fully disclose all such arising Intellectual Property Rights to AHDB and shall not use them for its own purposes or those of any third party nor disclose them without the prior written consent of AHDB. The Supplier at the request and expense of AHDB will take all measures which may be necessary to vest ownership of such Intellectual Property Rights in AHDB or its nominee and shall assist AHDB in establishing and protecting such Intellectual Property Rights, including if necessary doing all such acts and executing all such documents as AHDB reasonably deems necessary. To the extent permitted by applicable Laws, the Supplier shall waive or shall procure the waiver of moral rights in such Intellectual Property Rights.
- 10.3. The Supplier shall:
- 10.3.1. ensure that each person who is engaged in relation to the Contract is engaged on terms which do not entitle him to copyright or any other arising Intellectual Property Rights;
 - 10.3.2. ensure that it is and remains entitled to transfer free from any encumbrances any title and/or rights necessary to effect any vesting required by this Contract;
 - 10.3.3. co-operate with and assist AHDB in obtaining and/or enforcing any and all rights in such Intellectual Property.

- 10.4. If a claim is made that the possession or use by AHDB of any Goods or Services supplied under this Contract infringes the Intellectual Property Rights of a third party, or in the Supplier's reasonable opinion such a claim is likely to be made, the Supplier shall promptly and at its cost either:
 - 10.4.1. obtain for AHDB the right to continue using the materials which were the subject of the claim; or
 - 10.4.2. modify or replace the infringing part of the materials so as to avoid the infringement or alleged infringement but in such a way that it complies with the representations and warranties in this Contract.
- 10.5. If the Supplier becomes aware that any person alleges that any Intellectual Property Rights owned by or to be vested in AHDB are invalid or that use of such Intellectual Property Rights infringes any Intellectual Property Rights of another party then it shall as soon as reasonably practicable give AHDB particulars thereof in Writing and shall make no comment or admission to any third party in respect thereof.
- 10.6. All AHDB's Intellectual Property Rights and all materials, products, samples, documents and information provided by AHDB to the Supplier (including copyright therein) shall remain the property of AHDB. Their use by the Supplier shall be allowed only within the limits of the purpose of this Contract or another written contract between the Parties.
- 10.7. This Contract shall not affect the ownership of any Intellectual Property Rights in existence before the Commencement Date.
 - 10.7.1. For the avoidance of doubt, Condition 10.1 shall not apply in relation to pre-existing Intellectual Property Rights in software that has been modified at AHDB's expense to enable the performance of this Contract. Any use of such modified software by the Supplier other than at the request of AHDB shall be subject to the prior agreement of AHDB in Writing.

11. PAYMENT

- 11.1. AHDB will not reimburse any increase in the Supplier's costs (including increases in pay rates, national insurance and other employment costs) unless agreed in writing prior to the Supplier incurring such an increase.
- 11.2. All payments shall be paid to the Supplier, which shall hold in trust for AHDB any monies due therefrom to any other person until they are received by that person. The Supplier shall comply with instructions from AHDB in Writing to withhold part or all of any such payment to such a person and AHDB shall reimburse the Supplier for any damages awarded judicially against the Supplier consequent upon the Supplier's compliance with any such instructions.
- 11.3. AHDB shall pay all undisputed amounts within 30 days of the day when it has determined that a received invoice is valid and undisputed (the 'Due Date'). Such determination shall include establishing that it is proper (as described in Schedule B). Time for payment shall not be of the essence of the Contract.
 - 11.3.1. AHDB will consider and verify invoices in a timely manner.
 - 11.3.2. If AHDB fails to comply with paragraph 11.3.1 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and

undisputed for the purpose of Condition 11.3 after a reasonable time has passed, taking into consideration all relevant circumstances.

- 11.3.3. If any sum due under the Contract is not paid within 30 days of the Due Date then, without prejudice to the Parties' other rights under the Contract, that sum shall bear simple interest from the Due Date until payment is made in full, both before and after any judgment, at 2 per cent per annum over the official dealing rate in force on the day on which such interest starts to run, where the official dealing rate is the rate announced from time to time by the Monetary Policy Committee of the Bank of England and for the time being in force as the official dealing rate.
- 11.3.4. The Supplier is not entitled to suspend deliveries of Goods or Services as a result of any sum being outstanding.
- 11.3.5. In the event that an agreed milestone is not achieved or the final claim is not made as agreed, AHDB reserves the right to withhold all or part of the relevant monies otherwise due to the Supplier.
- 11.3.6. AHDB reserves the right to audit any payment for which reimbursement is claimed and the Supplier agrees to co-operate fully in relation to any such audit.
- 11.4. Notwithstanding any other provision in this Contract and without prejudice to its other rights and remedies, no part of the final scheduled payment shall be due from or payable by AHDB until the performance of the Contract by the Supplier has been completed to AHDB's satisfaction acting reasonably.
 - 11.4.1. In the event that no final payment is scheduled, such final scheduled payment shall be deemed to be 20% of the total payment due under this Contract if performed in full.
 - 11.4.2. In the event that the Supplier fails to complete such performance on or before the Completion Date through no fault of AHDB:
 - (a) the Parties shall agree a date and the performance shall be completed no later than such date;
 - (b) without prejudice to any other rights and remedies available to AHDB, AHDB shall be entitled to receive from the Supplier an amount equal to 10% of the total sum payable by AHDB to the Supplier under the Contract, such payment being a debt due from the Supplier to AHDB and representing the reasonable estimate by the Parties of the losses or damages likely to arise to or be incurred by AHDB as a result of such breach, and not by way of a penalty or similar charge; and
 - (c) the Supplier shall pay such payment to AHDB within 30 days of receiving a proper invoice from AHDB.
- 11.5. Without prejudice to any other right or remedy, AHDB shall have the right to set off any amount owed by the Supplier to AHDB for any reason including any overpayment by AHDB to the Supplier against any amount payable by AHDB to the Supplier under the Contract or any other contract.

12. LIABILITY

- 12.1. Neither Party shall be responsible to the other Party (including any person forming part of the Supplier) for any special, exemplary, indirect or consequential loss or damage, loss of profit, loss of revenue or anticipated savings, loss of business opportunity or loss of goodwill arising under or pursuant to this Contract, whether arising from negligence, breach of contract or otherwise, whether or not that Party has been advised of the possibility of, should have known of, or could reasonably have prevented, such loss or damage.

- 12.2. The Supplier shall indemnify AHDB, its employees, agents and contractors from and against liability for:
- (a) death or personal injury;
 - (b) loss of or damage to property (including property belonging to AHDB for which it is responsible);
 - (c) any losses arising from a breach of Data Protection Legislation; and
 - (d) actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis)
- which arises out of or in connection with the supply of the Goods and Services or a breach of this Contract.
- 12.3. The indemnities contained in Condition 12.2 shall not apply to the extent that:
- (a) any loss, damage injury, cost and expense is caused by the negligent or wilful act or omission of AHDB, its employees, agents or contractors, or by the breach by AHDB of its obligations under the Contract; or
 - (b) the Supplier is able to demonstrate that the loss, damage or injury arose as a direct result of the Supplier acting on specific instructions in Writing from AHDB.
- 12.4. Each Party shall, with effect from the Commencement Date for such period as necessary to enable the Supplier to comply with its obligations under Condition 12, take out and maintain (and shall require any sub-contractor to take out and maintain) with a reputable insurance company an appropriate level of insurance covering appropriate risks.
- 12.4.1. The insuring Party shall responsibly and reasonably determine the appropriateness of the level of insurance and risks to be covered and shall take into consideration any views reasonably expressed by the other Party. That other Party shall not unreasonably refuse to assist the insuring Party when it is making such determination. Failure to insure adequately shall not relieve a Party of its liability to the other Party.
- 12.4.2. Satisfactory evidence of the level of insurance and the payment of premiums in relation to the policy or policies of insurance referred to in Condition 12.4 shall be shown by the insuring Party to the other Party on request.
- 12.4.3. No Party to the Contract shall take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to it, which would entitle any insurer to refuse to pay any claim under any insurance policy in which that Party is an insured, a co-insured or additional insured person.
- 12.4.4. AHDB may waive the requirement for indemnity and/or insurance, in whole or part, where the Supplier is able to provide adequate assurance that it can meet any liabilities for which indemnities are provided for under Condition 12.2.
- 12.5. In relation to any Supplier that is an Academic Institution (or is deemed to be such by this Contract), the following shall not apply:
- (a) any requirement for an indemnity and any consequential requirement for insurance and evidence thereof;
 - (b) Condition 11.5.
- For the avoidance of doubt, such non-application shall not relieve the Supplier of any liability to AHDB.

- 12.6. Neither Party shall be responsible for any failure to perform its obligations hereunder due to an event of force majeure, including any circumstances beyond its reasonable control, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either Party's workforce).
- 12.6.1. In the case of an event of force majeure, the Parties shall seek to minimise any adverse effect on the Contract, including adjusting milestones where appropriate
- 12.6.2. If an event of force majeure delays the supply of any Goods or Services by more than thirty days and this event could reasonably be envisaged to jeopardise the interests of a Party or the Contract, the Parties shall consider and agree on appropriate action including whether the Contract and its performance should be amended, postponed or terminated and subject to the agreement of AHDB shall take appropriate action.

13. DELIVERY, ACCEPTANCE AND REJECTION

- 13.1. Subject to Conditions 13.1.1 and 13.1.2, the Goods shall be delivered DDP to the AHDB Stores and the Services performed at the place specified in the Contract. Delivery shall take place at the entrance to the relevant building or such other building as may be specified and not roadside unless otherwise agreed in writing prior to delivery.
- 13.1.1. Supplies of Goods by letter post may be addressed to the Principal Office.
- 13.1.2. A different place of delivery or performance may be agreed:
- (a) in Writing prior to delivery of the Goods or the performance of the Services;
or
 - (b) orally prior to such delivery or performance and where appropriate subsequently confirmed in Writing.
- 13.1.3. The Supplier shall unload the Goods at its own risk as directed by AHDB. Unless otherwise stipulated by AHDB, deliveries shall only be accepted by AHDB in Business Hours.
- 13.1.4. The date for delivery shall be specified, or if no such date is specified then unless otherwise agreed delivery shall take place within 28 days of the order.
- 13.1.5. The Goods shall remain at the risk of the Supplier until delivery in accordance with the Contract to AHDB is complete (including unloading and stacking) when ownership of the Goods shall pass to AHDB.
- 13.2. In respect of Goods, the Supplier shall invoice AHDB upon, but separately from, despatch of the Goods to AHDB. In respect of Services, the Supplier shall invoice AHDB monthly in arrears (or at such other frequency as may be agreed between the Parties).
- 13.3. The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note which shows, among other things, the Purchase Order number, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 13.4. Time shall be of the essence of the Contract in relation to the Supplier's obligation to supply the Goods and Services unless otherwise specifically agreed in Writing.
- 13.5. If the Goods are not delivered on the due date, the Services are not provided in accordance with the agreed timetable or if the Goods or Services (in the reasonable opinion of AHDB) do not comply with the Purchase Order, the

Specification or any other standards stipulated by AHDB then, without prejudice to any other rights which it may have, subject to Condition 14.12 AHDB reserves the right to terminate the Contract.

- 13.6. All Goods shall be packaged by the Supplier so as to ensure that they will be in good condition upon arrival at their destination. If the Supplier requires AHDB to return any packaging material to the Supplier that fact must be clearly stated on any delivery note delivered to AHDB and any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 13.7. Where AHDB agrees in Writing to accept delivery of Goods or Services by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Supplier to properly deliver any one instalment shall entitle AHDB at its option to treat the whole Contract as repudiated.
- 13.8. If the Goods are delivered to AHDB in excess of the quantities ordered AHDB shall be entitled to reject the excess Goods and shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be available for collection at the Supplier's expense within 3 months. Thereafter AHDB may dispose of such excess Goods at the Supplier's expense.
- 13.9. AHDB shall not be deemed to have accepted the Goods until it has had 7 days to inspect them following delivery. AHDB shall also have the right to reject the Goods as though they had not been accepted for 14 days after any Latent Defect in the Goods has become apparent.
- 13.10. The Supplier agrees that AHDB or AHDB's representative shall be entitled to monitor the performance of the Contract at any reasonable time and, save where AHDB has good reason not to give any notice, on reasonable notice and to inspect and take copies of any relevant records of the Supplier.
- 13.11. The Supplier shall promptly, and in any case within one week of its becoming aware of any circumstances likely to adversely affect the supply of the Goods and Services or the time in which this will be completed, bring these matters to the attention of AHDB's Primary Contact in Writing and the Primary Contacts shall reasonably agree any consequential action that shall be taken.

14. TERMINATION

- 14.1. This Contract may be terminated by agreement in Writing between the Parties at any time.
- 14.2. Where AHDB is reasonably of the opinion that the Supplier has a significant conflict of interest relating to the Contract, subject to Condition 14.12 AHDB may terminate the Contract. This Condition shall not apply if any such conflict of interest is capable of being avoided or removed and the Supplier promptly and successfully takes steps at its expense to avoid or remove the conflict.
- 14.3. Where in the reasonable opinion of AHDB the Supplier has failed to:
 - (a) progress the supply of the Goods and Services in accordance with the Specification unless otherwise reasonably agreed between AHDB and the Supplier in Writing, including any agreement under Condition 13.11; or
 - (b) otherwise fulfil its obligations under this Contract,

AHDB may give the Supplier notice in accordance with Condition 7 specifying the way in which its performance falls short of the requirements of the Contract, or is otherwise unsatisfactory. Such notice may:

- (a) direct the Supplier to remedy the fault at the Supplier's expense within such time as may be reasonably specified by AHDB; and/or
 - (b) withhold or reduce payments to the Supplier, in such amount as AHDB reasonably deems appropriate in the circumstances.
- 14.3.1. In relation to any significant failure described in Condition 14.3:
- (a) If the failure is not reasonably remediable, AHDB may treat the failure as a material breach of the Contract.
 - (b) If the failure is reasonably remediable and the Supplier fails to remedy it reasonably promptly or in accordance with any direction given by notice under that Condition, AHDB may then treat the failure as a material breach of the Contract.
- 14.4. In the event that the Supplier has committed a material breach of the Contract, subject to Condition 14.12 AHDB may terminate the Contract. This Condition shall not apply if such breach is capable of remedy and the Supplier has remedied such breach at its own expense within 30 days (or such other period as may reasonably be agreed) of being required by AHDB in Writing to do so.
- 14.5. If any distress, execution or other process is levied upon any of the assets of the Supplier intended to be used for the purposes of the supply of the Goods and Services, subject to Condition 14.12 AHDB may terminate the Contract. This Condition shall not apply if the Supplier is able to properly undertake such supply by other means at no additional cost to AHDB.
- 14.6. If the Supplier being an individual dies or is judged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983, AHDB may terminate the Contract.
- 14.7. The Supplier shall promptly inform AHDB in Writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or change of status and of the completion of any such matter. For the purposes of this Condition 14.7, 'control' has the meaning set out in section 1124 of the Corporation Tax Act 2010.
- 14.7.1. AHDB shall respect any reasonable request by the Supplier to treat information provided under Condition 14.7 as Confidential Information for an appropriate specified period.
- 14.7.2. Upon completion of any of the matters described in Condition 14.7, AHDB shall consider in the context of the Public Contracts Regulations 2015 whether the continuation of the Contract with or without reasonable amendment is unlawful and shall take appropriate action which subject to Condition 14.12 may include terminating the Contract.
- 14.8. The Supplier shall inform AHDB in Writing immediately upon the occurrence of any of the following events:
- (a) being an individual:
 - is the subject of a bankruptcy order, or
 - has made a composition or arrangement with his creditors;
 - (b) being a company:
 - suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts under the Insolvency Act 1986;
 - goes into compulsory winding up;

- passes a resolution for voluntary winding up;
 - suffers an administrator, administrative receiver or receiver and manager to be appointed or to take possession over the whole or any part of its assets;
 - has entered into a voluntary arrangement with its creditors under Part I of the Insolvency Act 1986;
 - has filed a notice to obtain a moratorium, or made an application for a moratorium, or if any order for a moratorium is granted by the court;
 - has commenced negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
 - has proposed or entered into any scheme of arrangement or composition with its creditors under Part 26 of the Companies Act 2006; or
 - has been dissolved;
- (c) being a partnership or unregistered company:
- goes into compulsory winding up;
 - is dissolved;
 - suffers an administrator or receiver and manager to be appointed over the whole or any part of its assets;
 - has entered into a composition or voluntary arrangement with its creditors; or
 - any individual member of the partnership falls within Condition 14.8(a);
- (d) or is in any case affected by any similar occurrence to any of the above in any jurisdiction,

and subject to Condition 14.12 AHDB may terminate the Contract.

14.9. If:

- (a) the Supplier has failed to make satisfactory progress with the supply of the Goods and Services and AHDB reasonably believes that such supply is unlikely to be completed by the Completion Date;
- (b) AHDB's powers to impose a levy upon any Industry relevant to the Goods and Services are reduced or discontinued; or

subject to Condition 14.12 AHDB may terminate the Contract by giving the Supplier not less than 30 days' notice.

14.10. AHDB shall have the right at any time and for any reason to terminate the Contract by giving not less than 60 days' notice, whereupon all work on the Contract shall be discontinued.

14.11. Subject to Condition 14.12 and pursuant to regulation 73 of the Public Contracts Regulations 2015, AHDB may terminate the contract by giving the Supplier not less than 30 days' notice if:

- (a) the contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of those Regulations;

- (b) the Supplier has, at the time of contract award, been in one of the situations referred to in regulation 57(1), including as a result of the application of regulation 57(2) of those Regulations, and should therefore have been excluded from the procurement procedure; or
 - (c) the contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty of the Functioning of the European Union.
- 14.12. Before giving notice of termination under Conditions 6.6, 13.5, 14.2, 14.4, 14.5, 14.7.2, 14.8, 14.9, 14.10 or 14.11, AHDB shall consult the Supplier and the Parties shall promptly consider whether any part of the supply of the Goods and Services could reasonably and usefully continue to be undertaken as an alternative to termination and if so whether the Contract should consequently be amended. If AHDB agrees to such continuation, notice of termination shall not be given and appropriate amendments shall be made to the Contract, which may include amendments to the Specification and the payments due.
- 14.12.1. In the event that no agreement is reached to continue the supply of any or all of the Goods and Services within 10 days of AHDB consulting the Supplier under Condition 14.12, AHDB may terminate the Contract.
- 14.13. Notice of termination of this Contract shall be given by AHDB to the Supplier in accordance with Condition 7.
- 14.14. AHDB may, during any notice period direct the Supplier:
 - (a) to refrain from performing the Contract or any part thereof;
 - (b) to cease work immediately; or
 - (c) to complete, in accordance with this Contract, any part of the supply of Goods or Services, which shall be paid at the agreed price or, where no agreement exists as to price, a fair and reasonable price, and such of the Contract as is relevant to the completion of such part shall continue to have effect until such part is completed or discontinued.
- 14.15. Termination of this Contract by AHDB may (unless otherwise specified) have immediate effect.
- 14.16. Except as expressly provided in this Contract, termination of the Contract shall not affect:
 - (a) any right, obligation or liability of any Party which has accrued at the date of termination;
 - (b) any provision of this Contract which is expressly or impliedly intended to continue to have effect after the Contract has been terminated.
- 14.17. If the Contract is terminated by AHDB otherwise than as a consequence of a material breach by the Supplier, the Supplier shall be entitled to claim from AHDB reimbursement of expenditure incurred or irrevocably committed by the Supplier necessarily and properly in relation to the performance of this Contract including expenditure unavoidably incurred as a result of such termination but excluding loss of profits and any compensation or consequential or indirect loss. The liability of AHDB under this Condition together with any other payments made or to be made to the Supplier shall not exceed the total sum payable for the supply of the Goods and Services as set out in Schedule B.

- 14.17.1. Any such reimbursement shall be conditional upon the Supplier complying with a duty to mitigate such costs as far as is reasonably practicable.
- 14.18. In the event of termination of this Contract as a consequence of a material breach by the Supplier:
- (a) AHDB shall not be under any obligation to make any payment to the Supplier for such period as is reasonable for AHDB to assess the loss and/or damage suffered as a result of the termination. After such period and discussion with the Supplier, AHDB may recover the amount of such loss and/or damage including by set off against any sums due to the Supplier in relation to this Contract;
 - (b) the Supplier shall promptly refund to AHDB any funds paid by AHDB to the Supplier in accordance with this Contract and not in the reasonable opinion of AHDB properly spent or properly committed for the purposes of the Contract;
 - (c) all rights granted to AHDB by the Supplier including any licence to use any Intellectual Property Rights in relation to the Goods and Services shall reasonably continue until the supply of the Goods and Services has been discontinued or completed in relation to the Goods and Services or similar goods and services with a replacement supplier;
 - (d) all rights acquired during the period of the Contract by the Supplier to use any Intellectual Property Rights provided by AHDB shall cease upon termination;
- 14.19. In the case of termination of this Contract pursuant to Conditions 5.2.1(c), 6.6, 13.5, 14.2, 14.4, 14.5, 14.6, 14.7.2, 14.8, 14.9 or 14.10, without prejudice to any other rights which it may have AHDB reserves the right to:
- 14.19.1. refuse to accept any subsequent delivery of the Goods or Services which the Supplier attempts to make;
 - 14.19.2. purchase from a third party Goods and Services of similar nature and scope to those that were to be supplied under this Contract;
 - 14.19.3. recover from the Supplier any excess cost incurred by AHDB over the price agreed in this Contract together with all charges and expenses arising from the purchase of such Goods or Services from the third party; and
 - 14.19.4. claim damages for any additional costs, loss or expenses incurred by AHDB which are in any way attributable to the Supplier's failure to perform the Contract.
- 14.20. Subject to Condition 14.20.1, to the extent that the Contract is declared wholly ineffective or otherwise invalid, void, voidable or unenforceable by any court, tribunal or administrative body of competent jurisdiction pursuant to law (including any law which implements or gives effect to the EU Remedies Directive [2007/66/EC]), the Contract shall terminate with immediate effect and Condition 14.17 shall apply. The Supplier acknowledges that, other than as set out in this Condition 14.20 (or Condition 14.20.1 if applicable), it shall be entitled to no other payment from AHDB in the event of any such termination.
- 14.20.1. Where a declaration of the type described in Condition 14.20 (a 'Declaration') is stayed or otherwise suspended pending an appeal by AHDB or for any other reason, the Contract shall continue in full force and effect for such period of stay or suspension (the 'Relevant Period'). If the Declaration is upheld at the end of the Relevant Period the Contract shall be deemed to have terminated on the date the original Declaration was made (or such other date as may be determined by the court, tribunal or administrative body of competent

jurisdiction) and the provisions of Condition 14.20 shall apply with effect therefrom (provided that the amounts being reimbursed to the Supplier thereunder shall include those reasonably incurred by it in respect of work-in-progress or Services performed during the Relevant Period). If the Declaration is overturned at the end of the Relevant Period the Contract shall continue in full force and effect for the remainder of the Term. The Supplier agrees to provide all reasonable assistance to AHDB in connection with any Declaration or appeal against a Declaration and in mitigating the effect of such.

14.21. The Supplier shall co-operate fully with AHDB following the termination of the Contract as a consequence of its expiry or otherwise. This co-operation shall extend to allowing full access to, and providing copies of, all documents, reports, summaries and any other information relating to the supply of the Goods and Services. Upon the termination of the Contract, the Supplier shall:

- (a) forthwith return to AHDB the originals and any copies of all documents and materials provided in relation to the Contract and destroy any electronic copies thereof;
- (b) transfer to AHDB, or any person designated by AHDB, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the supply of the Goods and Services;
- (c) permit AHDB to enter premises and recover any documents, equipment and materials which are the property of AHDB provided AHDB reasonably informs the Supplier in advance of its intention so to do,

so however that such documents, equipment and materials may be retained insofar as they are required by the Supplier for the purposes of another contract with AHDB.

14.21.1. Following termination or expiry of the Contract otherwise than as a result of a material breach by the Supplier, the Supplier shall be entitled to invoice AHDB for a reasonable fee in respect of the Supplier's time spent on assisting AHDB with any requests for information.

Brexit

14.22. In the event that AHDB suffers Hardship as a result of Brexit, including (but not limited to) the following circumstances:

- 14.22.1. the imposition of tariff and/or non-tariff barriers on the supply of Goods and/or Services between the UK and EEA or EU;
- 14.22.2. the Supplier is no longer permitted or authorised to supply the Goods and/or perform the Services in the UK;
- 14.22.3. circumstances in which relevant laws of the UK relating to the supply of the Goods and/or Services are no longer consistent with the laws of the EU or EEA;
- 14.22.4. the transfer (or onwards transfer) of personal data to the UK or EEA (or any part) that is necessary for the performance of this Agreement becoming unlawful (or becoming unlawful without the use of new or additional appropriate safeguards);
- 14.22.5. changes in currency exchange rates impacting the cost of the supply of the Goods and/or Services,

AHDB may (without prejudice to any other rights and remedies it may have under this Agreement) terminate this Agreement immediately with no liability to the Supplier by providing written notice to the Supplier.

15. TRANSFER OF RIGHTS AND OBLIGATIONS

- 15.1. The Supplier shall not sub-contract, transfer, assign, charge, or otherwise dispose of the Contract or any part of it without the prior consent of AHDB in Writing, which may be conditional but shall not be unreasonably withheld, denied or delayed.
 - 15.1.1. The Supplier shall ensure, if so requested by AHDB, that an assignee enters into a novation agreement with AHDB to perform the Contract as if the assignee were a Party to the Contract in lieu of the Supplier.
- 15.2. AHDB may at any time by giving 30 days' notice to the Supplier in accordance with Condition 7, transfer or assign all or any rights and/or obligations under the Contract.

16. FREEDOM OF INFORMATION AND DATA PROTECTION

- 16.1. The Parties acknowledge that, in order to be compliant with the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or any other legislation governing access to information (the 'FOI Legislation'), there may be an obligation to provide information that relates to this Contract, which may include Confidential Information, on request to third parties.
 - 16.1.1. In the event that either Party receives a request for information relating to the Contract falling within the scope of the FOI Legislation, that Party (the 'Disclosing Party') shall be entitled to disclose such information as is necessary to comply with the FOI Legislation. The Parties shall co-operate in order to enable the Disclosing Party to comply with its obligations under the FOI Legislation. Where Confidential Information relating to the Contract is exempt from disclosure, it shall not be disclosed without the agreement in Writing of the owning Party.
 - 16.1.2. The Disclosing Party shall not be liable for any loss, damage, harm or other detriment suffered by the other Party arising from the disclosure of any information required by the FOI Legislation to be disclosed.
- 16.2. AHDB maintains a database of its contracts including all those likely to have a value of £25,000 or more. AHDB recognises the importance of transparency in its procurement and contracting, and subject to any confidentiality obligations the contents of these contracts will be made available to interested persons on request.
 - 16.2.1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOI Legislation, the content of this Contract is not Contractor's Confidential Information. The Disclosing Party shall be responsible for determining whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOI Legislation.
 - (a) Notwithstanding any other term of this Contract, the Supplier hereby gives its consent for AHDB to provide or publish to the general public the Contract in whole or part, as it may be amended.
 - (b) The Supplier shall assist and co-operate with AHDB to enable AHDB to provide or publish this Contract, including by identifying any matters which it considers to be confidential or otherwise exempt from disclosure under the FOI Legislation. AHDB will take any representation from the Supplier into fair and proper account.
- 16.3. The Supplier shall not publicise or permit any other person to publicise the procurement, award, existence or content of this Contract without the prior written

permission of AHDB's Director of Communications and Legal Services, which may be conditional and which shall not be unreasonably denied, delayed or withheld.

- 16.3.1. For the avoidance of doubt, Condition 16.3 does not prevent:
 - (a) The disclosure by any Party of this Contract or a draft thereof to a supplier or sub-contractor that is expected to act with the Supplier in relation to the supply of the Goods and Services so that it is aware of the terms under which the Supplier will contract with AHDB. Commercially sensitive matter may be redacted. Similar conditions to those imposed on the Supplier under Condition 16.3 shall be imposed on the recipient.
 - (b) the disclosure of the AHDB Terms to any person.
- 16.4. The Parties shall comply with the obligations contained in Annex 2 in respect of data processing and the protection of personal data within the meaning of the DPL.
- 16.5. Insofar as the Supplier is subject to the FOI Legislation or is the data controller pursuant to the DPL, this Condition 16 and Annex 2 shall have mutual effect *mutatis mutandis*.

17. DISPUTE RESOLUTION

- 17.1. The Parties shall in good faith attempt to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.
 - 17.1.1. If any such dispute is not resolved by such negotiation within 42 days from notification that a dispute exists or such longer period as may be agreed, including escalation to senior executives if appropriate, the Parties shall consider referring the matter to mediation in accordance with Conditions 17.2 and 17.3.
 - 17.1.2. Each Party agrees to pay due consideration to Conditions 17.1 and 17.3 before commencing proceedings to settle a dispute relating to this Contract.
- 17.2. The procedure for mediation shall be as follows:
 - 17.2.1. a neutral person ('the Mediator') shall be chosen by agreement between the Parties, alternatively, any Party may within 14 days from the date of the proposal to appoint a mediator, or within 14 days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to the Centre for Dispute Resolution ('CEDR') to appoint a mediator;
 - 17.2.2. the Parties shall within 14 days of the appointment of the Mediator meet with him to agree a timetable for the exchange of all relevant and necessary information and the procedure to be adopted for the mediation. If appropriate, the Parties may at any stage seek from CEDR guidance on a suitable procedure;
 - 17.2.3. unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the Parties in any future proceedings;
 - 17.2.4. if the Parties reach agreement on the resolution of the dispute, that agreement shall be put in Writing and shall be binding upon the Parties;
 - 17.2.5. failing agreement, any Party may invite the Mediator to provide a non-binding but informative opinion in Writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior consent of the Parties in Writing.

17.3. For a period of 60 days from the date of the appointment of the Mediator, or such other period as the Parties may agree, none of the Parties may commence any proceedings in relation to the matters referred to the Mediator.

18. GENERAL

18.1. Subject to any fraudulent misrepresentation, the Contract including any documents referred to herein and any properly made amendment sets out the entire agreement relating to the supply of the Goods and Services and supersedes any prior agreement, contract, understanding, proposal, statement or other communication relating to the Goods and Services whether oral or written.

18.1.1. In entering into this Contract, each Party acknowledges that it does not do so on the basis of and does not rely on any representation, warranty or other provision except as expressly provided in this Contract.

18.1.2. No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement of an Order, specification, delivery note, invoice, proposal or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

18.2. Nothing in this Contract shall be taken as limiting or excluding AHDB's or the Supplier's rights or obligations pursuant to law.

18.3. In carrying out the supply of the Goods and Services, the Supplier shall be acting as principal and not as agent or employee of AHDB. Accordingly:

18.3.1. Nothing in this Contract shall be construed so as to create a partnership or joint venture between the Parties or have the effect of making any employee of any Party a servant of another Party;

18.3.2. No Party shall act or describe itself as the agent of another Party nor shall it make or represent that it has authority to make any commitments on the other's behalf;

18.3.3. The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent or employee of AHDB, and

18.3.4. Nothing in the Contract shall impose any liability of AHDB in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of AHDB to the Supplier that may arise by virtue of either a breach of the Contract or any negligence on the part of AHDB, its staff or agents.

18.4. The following requirements shall not apply as between AHDB and a Party who is part of the Crown and the Supplier shall not require any sub-contractor that is part of the Crown to comply with provisions similar to those requirements:

(a) Conditions 3.1.2, 12.2, 12.4 (excluding the requirement in relation to sub-contractors) and 14 (to the extent that it relates to Condition 3.1.2);

(b) Any other requirement for an indemnity or insurance.

18.4.1. The provisions in Condition 18.4 shall apply *mutatis mutandis* in relation to a state department of a member state of the European Union, including any executive agency thereof.

- 18.4.2. For the avoidance of doubt the existence, continuation or size of any liability to AHDB shall not be affected by the operation of this Condition 18.4.
- 18.5. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be severed and the remaining provisions of the Contract shall continue in full force and effect.
- 18.6. Each right or remedy of AHDB under the Contract is without prejudice to any other right or remedy of AHDB whether under the Contract or not and is in addition to any conditions implied in favour of AHDB by Law.
- 18.7. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.
- 18.7.1. The delay, failure or neglect of any Party to exercise any right or remedy shall not constitute a waiver of that right or remedy.
- 18.7.2. No waiver shall be effective unless it is communicated in Writing.
- 18.8. The Supplier agrees to permit any competent authority to perform such checks as it may lawfully require for the purpose of establishing the compliance of AHDB with regulatory or contractual requirements.
- 18.9. This Contract does not give any person who is not a Party to it any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions. This does not affect any right of a third party which exists other than pursuant to that Act.
- 18.10. The Contract shall be governed by and construed in accordance with the law of England and Wales.
- 18.10.1. Without prejudice to Condition 17, each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

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Annex 2 – Data Protection Addendum

1. Processing of Data

- 1.1 AHDB takes a positive attitude towards data sharing providing it is appropriate, undertaken within the scope of the Data Protection Legislation (“DPL”) and there are adequate and proportionate data security arrangements in place.
- 1.2 AHDB has agreed to provide the personal data described in Part 1 (the "Data") for the purpose specified therein ("Purpose") and the Data Protection Officer (“DPO”) has authorised its release for the Purpose in accordance with this Agreement. All Data shall be transmitted securely in accordance with Part 1.
- 1.3 The Data may include confidential information about companies and/or individuals. These data subjects were informed at the time the Data was collected that AHDB might or would transfer it to other persons. The Supplier accepts that AHDB bears no legal responsibility for the accuracy or comprehensiveness of the Data supplied.
- 1.4 The Data provided under this Agreement may only be used for the Purpose and must not be published in any form.

2. Data Access, Supplier Personnel and Sub-contractors

- 2.1 The Data is to be shared with the Supplier solely for the Purpose on a strictly need to know basis, and must not be used for any other purpose. Access to the Data must be limited by the Supplier to those personnel, who need to have such access for the Purpose ("Permitted Persons").
- 2.2 For the purpose of this agreement Permitted Persons shall mean all employees, officers, staff, other workers, agents and consultants of the Supplier who are engaged in the performance of the Purpose.
- 2.3 The Supplier shall on request and subject to any requirements or limitations of the DPL, give AHDB such particulars as it may reasonably require of all persons who are or may be at any time employed in the supply of the Goods and Services.
- 2.4 The Supplier shall take all reasonable steps to ensure the reliability and integrity of any Permitted Persons who have access to the Data and ensure that they:
 - 2.4.1 are aware of and comply with the Supplier’s duties under this agreement;
 - 2.4.2 are subject to appropriate confidentiality undertakings with the Supplier;
 - 2.4.3 are informed of the confidential nature of the Data and do not publish, disclose or divulge any of the Data to any third party unless directed in writing to do so by AHDB or as permitted by this Agreement; and
 - 2.4.4 have undergone adequate training in the use, care, protection and handling of personal data.
- 2.5 The Data must not be provided in whole or in part to any other natural or legal person.
- 2.6 The Supplier is responsible for ensuring that all Permitted Persons fully comply with all obligations and requirements of this Agreement. Failure to do so shall be considered a breach of this Agreement.
- 2.7 The Supplier must ensure that all Permitted Persons and any approved sub-contractor, are subject to a duty of confidence and binding written contractual obligations in respect of the Data no less onerous than those contained in this Agreement.

2.8 The Supplier shall not appoint any sub-contractor without AHDB's prior written consent, which consent shall not be unreasonably withheld. The Supplier shall remain fully liable for the sub-contractor's compliance with this Agreement and for all its acts or omissions. The Supplier shall provide AHDB with such information regarding the sub-contractor as AHDB may reasonably require.

3. Storage and Protection of Data

3.1 To the extent that the undertaking of this Agreement requires the Supplier to process the Data on behalf of AHDB, the Parties agree that AHDB shall be the data controller and the Supplier shall be the data processor (as such terms are defined in the DPL) and the Supplier agrees to:

3.1.1 comply with all applicable DPL in respect of the performance of its obligations under this Agreement and shall not by any act or omission cause AHDB (or any other person) to be in breach of any DPL;

3.1.2 store all data in accordance with Part 1;

3.1.3 process the Data only on and in accordance with AHDB's written and documented instructions as set out in this Annex 2 and provided from time to time, unless the processing is prohibited by any applicable laws and the Supplier has informed AHDB of such applicable laws;

3.1.4 notify AHDB immediately at Data.Protection@ahdb.org.uk if it believes that it has been given an instruction which does not comply with the DPL;

3.1.5 not transfer or permit the transfer of the Data outside the European Economic Area without AHDB's prior written consent; and

3.1.6 implement and maintain appropriate technical and organisational measures in accordance with this Annex 2 and in such a manner that the processing will:

3.1.6.1 meet the requirements of the DPL;

3.1.6.2 ensure the protection of the rights of data subjects within the meaning of the DPL; and

3.1.6.3 preserve the integrity of the Data and ensure a level of physical and technical security in respect of the Data at all times that is appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, damage or alteration, or unauthorised disclosure of or access to the Data transmitted, stored or otherwise processed;

3.2 As a minimum level of protection for the Data, and without prejudice to any other provision of this Annex 2, the Supplier shall:

3.2.1 assess risks to the confidentiality, integrity and availability of the Data at least quarterly;

3.2.2 verify its Information and Communication Technology (ICT) systems handling the Data to the extent necessary to give confidence in the security of the data; and

3.2.3 perform secure back-ups of all Data and ensure that up-to-date back-ups are stored in accordance with a recovery plan. The back-ups shall be made available to AHDB on request.

4. Data Subject Rights

4.1 The Supplier may inform any enquirer that it is conditionally authorised by AHDB to have and to use the Data and that the Data is being held and used in confidence under

its control. Any such enquiries shall be reported promptly to the DPO in writing at Data.Protection@ahdb.org.uk.

4.2 Subject to clause 5.1, the Supplier shall notify AHDB immediately if it:

4.2.1 receives a Data subject access request (or purported Data subject access request);

4.2.2 receives a request to rectify, block or erase any Data;

4.2.3 receives any other request, complaint or communication relating to either Party's obligations under the DPL;

4.2.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Data processed under this Agreement;

4.2.5 receives a request from any third party for disclosure of Data where compliance with such request is required or purported to be required by Law.

4.3 The Supplier shall (at its own cost) assist AHDB, insofar as is possible, in the fulfilment of its obligations:

4.3.1 to respond to requests made by data subjects to exercise any of their rights under DPL; and

4.3.2 in ensuring its compliance with its obligations pursuant to Articles 32 to 36 of the GDPR (and/or any similar obligations under applicable DPL).

5. Data Loss or Breach

5.1 The Supplier shall notify AHDB immediately if it becomes aware of any event that results, or may result, in unauthorised access to Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Data in any breach of this Agreement, including any Data breach. The Supplier's obligation to notify under clause 4.2 shall include the provision of further information to AHDB in phases, as details become available.

5.2 Notify AHDB's DPO at Data.Protection@ahdb.or.uk of any suspected or actual breaches of security without undue delay (but in no event later than twelve (12) hours after becoming aware of the breach) and provide such details as may be reasonably required regarding the nature and likely consequences of the breach.

5.3 Notify AHDB's DPO at Data.Protection@ahdb.org.uk without undue delay (but in no event later than twelve (12) hours) if the Supplier becomes aware that AHDB Data in its possession has or may have become corrupted, lost or degraded and inform AHDB of the remedial action the Supplier proposes to take. The Supplier shall restore or procure the restoration at its expense of such data that has become corrupted, lost or degraded wholly or partially as a result of the Supplier's default as soon as practicable but not later than four (4) weeks from the date on which the possibility of such corruption, loss or deterioration comes to the Supplier's attention. Subject to the Supplier having been given a reasonable opportunity to undertake such restoration, if such restoration is performed by or on behalf of AHDB otherwise than by the Supplier, the Supplier shall promptly reimburse the reasonable costs thereby incurred by AHDB.

6. Liability

6.1 The Supplier shall comply with all applicable DPL in respect of the performance of its obligations under this Agreement and shall not by any act or omission cause AHDB (or any other person) to be in breach of any DPL. The Supplier accepts and

acknowledges that nothing in this Agreement shall relieve the Supplier of its own direct responsibilities and liabilities pursuant to the DPL.

7. Deletion or Return of Data

- 7.1 On the earlier of the completion of the use of the Data for the Purpose or at the written request of AHDB for return or destruction of information or the date given in Part 1 ("**Completion Date**"), all copies of the Data must be returned or destroyed in accordance with Part 1 and the return or destruction must be confirmed in writing within seven (7) days of the Completion Date to AHDB's DPO at Data.Protection@ahdb.org.uk using the Data Disposal Form (a copy of which is attached at Part 2). Failure to do so shall be considered to be a material breach of this contract.

8. Audit Rights

- 8.1 Provide such information, co-operation and other assistance to AHDB as AHDB reasonably requires (taking into account the nature of processing and the information available) to ensure compliance with the DPL, including with respect to security of processing, data protection impact assessments, prior consultation with a supervisory authority regarding high risk processing and any remedial action and/or notifications to be taken in response to any Data breach or request from a data subject (as such terms are defined in the DPL).
- 8.2 The Supplier shall maintain complete, accurate and up to date written records of all categories of processing activities carried out on behalf of AHDB. Such records shall include all information necessary to demonstrate its and AHDB's compliance with DPL including such information as AHDB may reasonably require. The Supplier shall make such records available to AHDB on request in a timely manner (and in any event within three (3) business days) and provide such other information or allow such inspections at the Supplier's premises, as well as access to such records, information, system or personnel as AHDB reasonably requires to audit the Supplier's compliance with its obligations under the DPL and this Agreement and demonstrate its own compliance with the DPL.

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[REDACTED]

Data Transmission:

Data shall be transmitted securely as follows:

Fax

No Data will be sent by fax.

Email

Data sent by email must be encrypted if possible. If encryption is not possible, the data file will be password protected using at least 13 character alpha-numeric passwords. Passwords will only be supplied once data receipt is confirmed.

The Data Managers use FIPS 140-2 compliant AES256 'zip' compression and encryption software. Data files will be encrypted using public keys or as a 'zipped' file with pass-phrases as appropriate to the encryption capabilities of the data recipient.

The word '**CONFIDENTIAL**' must be entered in the subject field of the email in front of the email title in all instances.

Post

Hard copy Data may be transmitted by post, courier or messenger.

If Data must be put on CD/DVD it should be encrypted (see details of encryption above). If the data recipient is unable to collect the CD/DVD by hand, encrypted CD/DVD's may be transmitted by post (Recorded Delivery or better), courier or messenger. If encryption is not possible the CD/DVD will be password protected using at least 13 character alpha-numeric passwords. If the data recipient is unable to collect the CD/DVD by hand it will be dispatched by Royal Mail Special Delivery service with tracking of transit or by courier.

In all cases when sending Data by post, a single sealed cover addressed to an individual by name or appointment will be used. The cover must not attract attention. Therefore, it must not

be marked with any protective marking and only the descriptors 'Personal' or 'Addressee Only' may be used.

In all cases Data will be sent only to a named individual, agreed in advance, and must be accessed only by Permitted Persons.

Data Storage:

Hard copies of Data must be stored in a secure building and/or in a locked cabinet, and destroyed in accordance with the below.

When held on ICT systems on secure premises, password policies must be in place that ensure only those listed can access data. The ICT infrastructure should be certified to the Cyber Essentials standard as a minimum.

Full back-up policies must be in place for servers.

Data destruction must include all backup copies of data as well as live.

All access to standalone machines must be protected by username/password.

All data users must avoid transferring Data onto removable media (including laptop hard-drives, removable discs, CD's, USB memory Sticks, PDA's and media card formats), except when this is essential and only as agreed in writing with the Data Manager setting out the controls to be put in place. If taken outside the organisation's secure premises, laptop hard drives, CD/DVD, USB devices or any other removable media must be fully encrypted using FIPS 140-2 compliant AES256 encryption or better

Data Destruction:

Protectively marked waste is a potential source of information and prior to its secure destruction it should be held in an appropriate secure container under lock and key separate from other waste.

Methods of Destruction:

Protectively marked paper-based waste, such as, paper and card, must be securely destroyed by incineration, pulping or shredding. Waste may be shredded on any shredder or torn into four pieces and placed in a confidential waste sack. The waste sack must be kept under lock and key until it has been collected for onward transmission to the contractor who destroys it.

Electronic media containing Data must be disposed of by overwriting, erasure or degaussing for re- use.

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Part 2

DISPOSAL OF DATA FORM

It is a condition of this Agreement that the Supplier shall return this form duly completed within 7 days of the Completion Date. It may be returned as hard copy or in pdf format by electronic mail to Data.Protection@ahdb.org.uk.

In the event that the destruction and notification requirements are not satisfied, the Supplier must immediately notify AHDB's DPO (Tel: 024 76 69 2051; Email: Data.Protection@ahdb.org.uk), specifying the reason for such failure.

Failure to do so shall be considered to be a breach of this contract.

I confirm that all Data provided under this Agreement and all copies thereof have been destroyed in accordance with this Agreement.

Signed:

Name (Block Capitals):

Date:

Organisation:

Please return the completed form within 7 days of data destruction to:

DPO, AHDB, Stoneleigh Park, Kenilworth, Warwickshire, CV8 2TL

Email: Data.Protection@ahdb.org.uk

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Appendix Specification Details

The information in this Appendix is to be read as having been amended by any amendments agreed in accordance with this Contract.

The invitation and acceptance by AHDB for the supply of Representation work covering Portuguese markets on behalf of AHDB, by tender as published on Bravo – DEFRA’s e sourcing portal

<https://defra.bravosolution.co.uk>

Project title: Representation work covering Portuguese markets

Bravo project reference: 31400

Invitation to tender published on: 14th December 2020

Supplier’s tender proposal dated 5th February 2021 and all Bravo messaging/clarifications to the award of the contract.

AHDB Specification – Please be advised, there is now no budget for any sub Saharan activities as mentioned throughout the specification, and therefore any mention of this area is purely due to transparency of what was initially advertised

The Service

AHDB Exports are looking for a Portuguese/French/English speaking representative to develop the Portuguese and sub-Saharan African market for British lamb and beef. The successful representative must have the expertise and experience to identify the right priority markets, and the ability to devise the best local strategies to achieve effective market growth for British lamb and beef in the Portuguese and sub-Saharan African market.

The successful representative will be responsible for increasing sales of quality assured British lamb and beef in Portugal and of 5th quarter items into sub-Saharan markets.

Responsible for driving value and volume sales, the successful representative will be expected to perform the following duties:

- Liaise closely with the AHDB Exports team, agree and update on activity and provide the latest market intelligence and insights
- Identify and develop priority markets for British lamb and beef
- Effectively maintain and build new relationships with relevant contacts in the Portuguese and sub-Saharan market. Where appropriate, work jointly with them to increase market exposure and demand for British lamb and beef
- Devise and implement effective local strategies for the promotion of British lamb and beef aimed at increasing awareness and brand loyalty.
- Act as brand ambassador for British produce
- Liaise with central AHDB staff in areas such as media, PR, digital.

Please note: Responsibility for organising and overseeing the successful delivery of promotional activity is within the scope of this specification. The practical delivery and costs associated with such activities (e.g. in-store promotions, events and PR) are expected to be over and above this contract.

The successful representative will be principally engaged on the lamb and beef sectors, but may be required to cover market development work in the pork and dairy sectors. Some knowledge of these sectors would be advantageous.

This contract will be for the period of 1 year followed by an option to extend by 3 further periods of 12 months each, after which the opportunity will be put out to tender again. The indicative contract start date is 31st March 2021. If any options are taken up, an extension contract will be drawn up and agreed between both parties, where marketing activities will for that period will be agreed.

1. Scope

The AHDB representative requirements for the Portuguese and sub-Saharan African market includes, but is not limited to:

- Liaise effectively with the UK-based AHDB Export team by regular telephone, email and face-to-face communication. This may require foreign travel to AHDB Head Office or major food events (e.g. SIAL Paris, Anuga) for meetings. The total number of face-to-face meetings, including at events, is expected to be a minimum of three per year
- Build and maintain effective relationships with lamb and beef exporters, agents, representatives, importers, distributors, food service operators and retailers. As appropriate, work jointly with these contacts to successfully deliver promotional activities
- Create and expand the commercial platform for AHDB as a British Meat Exporter. This includes close liaison with Portuguese and Sub-Saharan African retailers and distributors. Please note: our database of contacts will be provided to the successful representative
- Development and delivery of a yearly activity plan, following agreement with AHDB assigned Manager. This must show the nature of activity and timings, along with provisional costs (again agreed with the assigned Manager). The yearly plan must be aligned to AHDB's financial year (April to March) and normally produced in Q3 and agreed in Q4 of the previous financial year (obviously this will not be the case for year one due to timings and release of tender)
- As agreed in the yearly plan, organise and oversee the successful delivery (through third parties, as appropriate – see section 3) of:
 - Promotional campaigns and events aimed at the Portuguese and sub Saharan African meat trade, butchery and food service sectors. We expect the delivery of at least three promotional events each financial year including retail promotions. [Objective 1]
 - Retail support activities. This may include in-store promotions and POS. We expect the delivery of a minimum of three retail promotions each financial year [Objective 2]
 - PR and advertising activities, including the production of promotional materials (e.g. brochures, leaflets etc)
- Brand development: to include increasing brand presence (e.g. labels on retail packs) and consumer awareness of the Quality Standard Mark British/British lamb and beef and PGI West Country lamb and beef
- Representation of the British lamb and beef sectors to Portuguese sub-Saharan authorities and UK overseas authorities such as DIT, Embassies, Consulates and the High Commission, for ad-hoc issues and crisis management, if needed. In exceptional circumstances, there may be a requirement for additional crisis management support (e.g. a major animal health issue/pandemic). Additional requirements will be agreed on a case by case basis
- Representation of the British lamb and beef industry at major food events (e.g. SIAL Paris, Anuga) as part of the AHDB Export stand. Responsible for liaising and networking with Portuguese and sub Saharan African industries at the event
- Produce monthly market intelligence updates on the Portuguese and sub Saharan African market for AHDB internal use. This is to include activity and market reporting
- Ability to translate, where needed.
- Organise and directly deliver inward and outward trade missions.

Please note: With the exception of the practical delivery of promotional activities, subcontracting is not envisaged. AHDB require the representative to be based or have a commercial office in Portugal

Mandatory Requirements

Please provide within your response:

Business Continuity policy – Please provide your policy. If acting as a ‘one man’ operation, please explain how resource and business continuity would work if for any reason the selected representative could not work for a period of time.

Although this contract covers EU territory, Representatives must be made aware that AHDB is a UK based organisation and its Terms and Conditions are based on UK law. Representatives must have a basic understanding and be compliant with EU law.

Exit Strategy – All data is the property of AHDB and is to be handed back at the end of the contract, or if this contract is terminated for whatever reason.

1) Mandatory requirements –Please confirm/evidence your ability to meet the below criteria

- (1) Confirm you are fluent in Portuguese/French and English (you must be able to communicate with AHDB stakeholders, exporters and other agents)
- (2) Based and/or have a commercial office in Portugal – please provide address and contact telephone number
If you cannot meet all of the above, then please do not submit a response to this Tender.

2) Quality Assessment (85%)

Please provide your response to the questions below by completing the Technical envelope in Bravo.

RATIONALE & METHODOLOGY (Worth 85%)

- Demonstrate your strategic and analytic abilities. You must provide a SWOT analysis for British lamb and beef in the Portuguese and sub Saharan African markets, clearly identifying the priorities and challenges – **Worth 20%**
- Detail your commercial & marketing approach to this contract, including working with third parties – **Worth 20%**
- Provide a detailed project plan for this contract – **Worth 10%**
- Set out your recommendations for achieving increased sales of British lamb and beef to Portugal and sub-Saharan Africa. This must include growth objectives in terms of value, volume and product perception – **Worth 10%**
- Demonstrate your ability to perform trade development programmes on the Portuguese and sub Saharan African markets aimed at increasing and/or maintaining value and volume sales. Please provide 2 case studies (max. of 2 x A4 pages in total) – **Worth 10%**
- Produce an example monthly market report – **Worth 10%**
- Provide a detailed procedure for Business Continuity in the case of *force majeure* e.g. major livestock health matter and/or trade impeachment. Also highlight and address any potential challenges you foresee in relation to this contract – **Worth 5%**

3) Price (worth 15%)

Please provide your detailed quotation (exclusive of VAT) for the supply of the services as mentioned throughout this document. Your quotation must be calculated in Euros, and include Day Rates for any potential ad-hoc activities.

This must be attached in the Commercial envelope on Bravo.

Supplier Submission (sub note from AHDB: any mention of sub Saharan is now excluded from this contract due to the budget being withdrawn, and therefore the focus is solely on Portugal)

MANDATORY REQUIREMENTS

1. FLUENCY IN PORTUGUESE, ENGLISH & FRENCH

[REDACTED]

1.1. PORTUGUESE

Is a Portuguese citizen, born and always lived in Portugal

1.2. ENGLISH

Took the MBA in the New University of Lisbon, [REDACTED]

Worked in multinationals throughout is working experienced, until having opened Food From Britain Portugal in 1999 and until 2009

For the last 15 years has been representing [REDACTED] Portugal and for the last 8 years in SS Africa as well

1.3. FRENCH

Studied French and prepared himself for the Trade Missions which were carried out in the French SSA countries for [REDACTED].

During those times, has extensively travelled the francophone countries alone to prepare the TM and later leading the group to meet the local importers, most of whom could only speak French

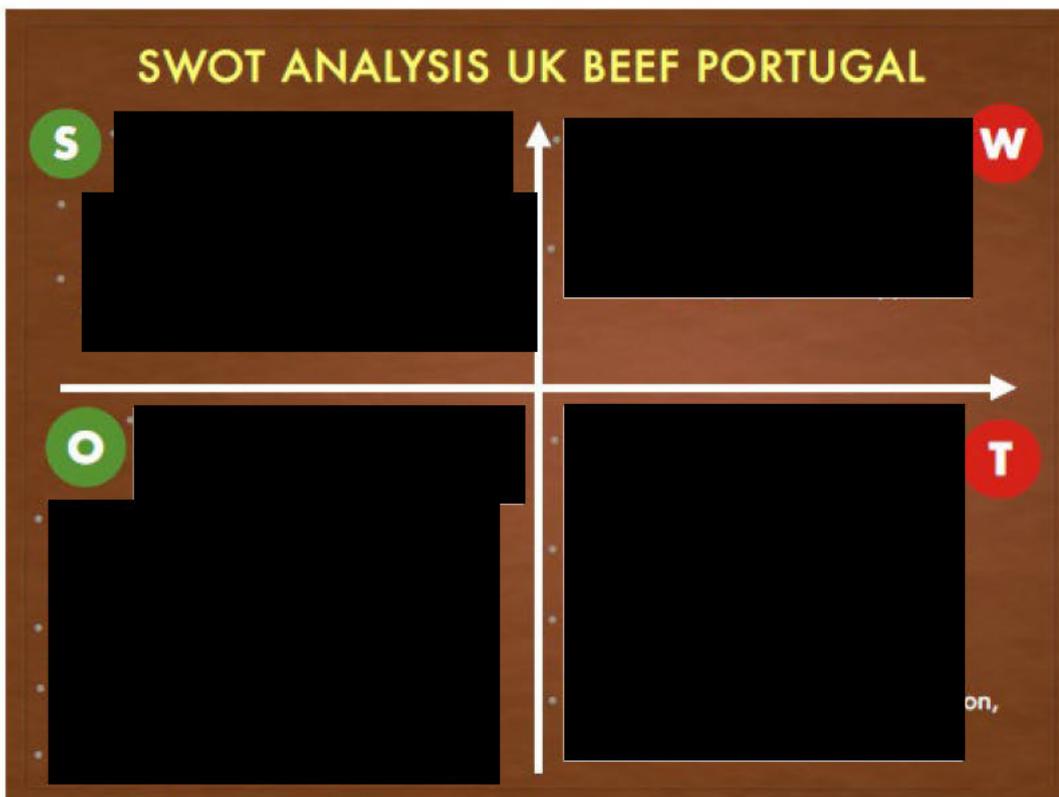
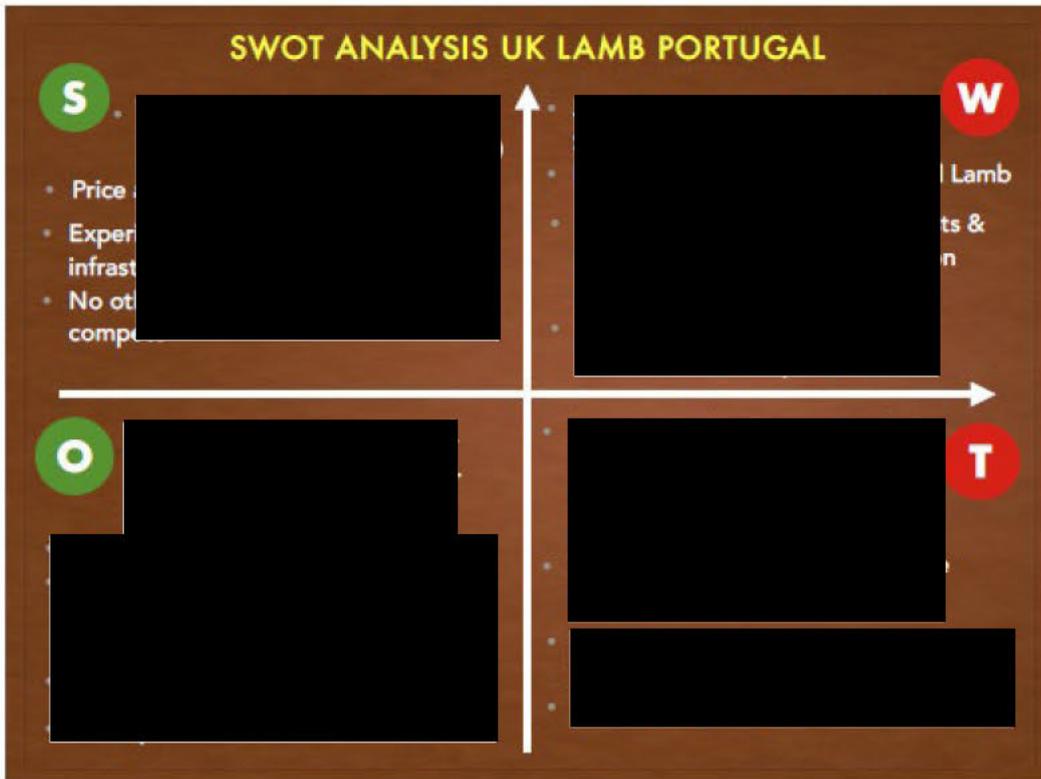
2. OFFICE IN PORTUGAL

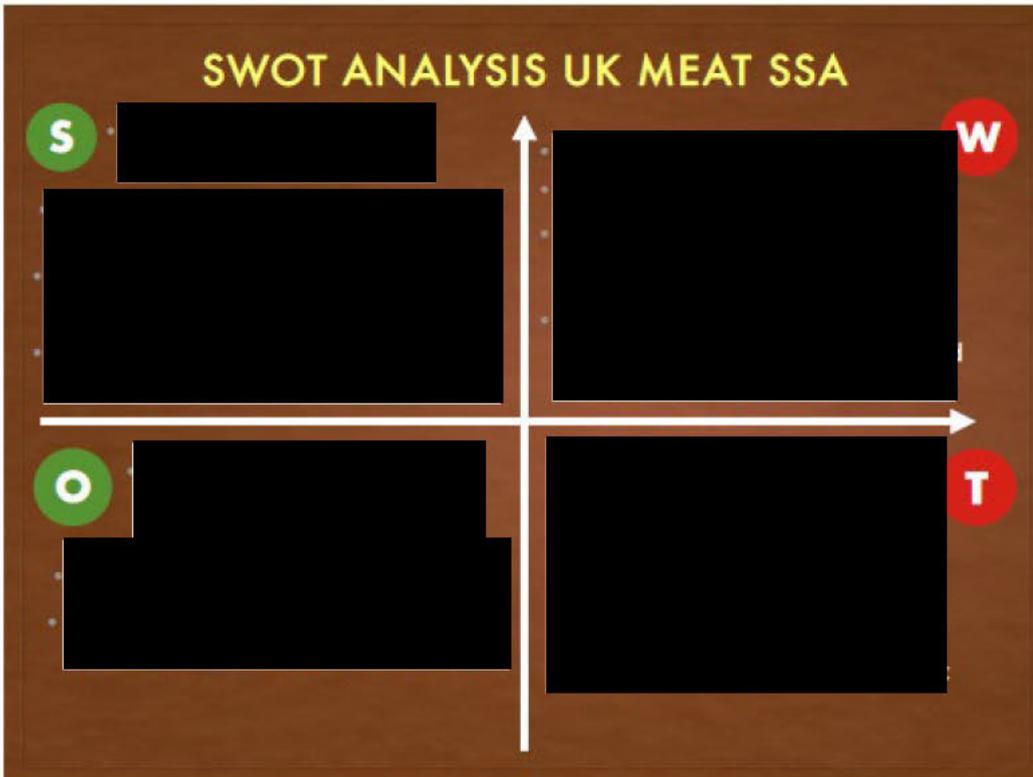
[REDACTED]

[REDACTED]

[REDACTED]

I. SWOT ANALYSIS





I. COMMERCIAL & MARKETING APPROACH

[REDACTED]

A) ORGANIZATION

Green Seed Portugal, started its activities originally as Food from Britain Portugal in 1999.

Due to the extinction of Food from Britain organization in 2009, it continued since then, as Green Seed Portugal (GSP). Under this new set-up, GSP is not constrained as before to deal exclusively with UK companies as far as Food and Drink is concerned.

[REDACTED]

GSP organization and headcount has evolved as a consequence of the service needs of its costumers as well as the Portuguese market potential. As such and until 2010, main activities were linked to PR and Promotional Support for UK companies in Portugal.

[REDACTED]

particular Sub-Saharan West Africa) developing a knowledge base and insights of those thanks to specific projects awarded by different clients.

Since 2017, the efforts to develop new business through Private Label in the leading Portuguese retailer Sonae / Continente for a key client had finally paid off, enabling GSP to expand it to other companies. [REDACTED]

[REDACTED]

As such we have the contacts, the understanding and the experience accumulated on the Portuguese Red Meat market for a long period of time. That means GSP can now operate a very solid and cohesive short team that manages to serve the clients' needs both in Portugal and Sub-Saharan Africa.

B) PORTUGAL

B.1) EXTERNAL FACTORS, TRENDS AND CONSTRAINTS

The country situation has changed a lot since then. As well as the environmental constraints, the dynamics of the market or the bargaining power of its players. We should say that the whole nature of the supply chain is changing. The main retailers might be similar, but operating in a different way.

It is important to highlight some key factors that have changed and are constraining the Red Meat business in Portugal:

- the Portuguese consumer loves Meat in general and its overall consumption per capita is high when compared with the other European countries. But the biggest share goes to poultry and pork, Beef and Lamb represent 20 Kgs / head. More recently, the new trends about a healthy life style and the negative media about red meat have impacted more negatively its consumption. As a consequence, the rise of veganism and plant based products that look and pretend to taste like meat are booming but more than that, it is the people that still consume meat but now much less as being healthier became a major consideration.

- [REDACTED]

- As such, the economy has plummeted significantly and many jobs were destroyed with unemployed reaching 10%. It should come back strongly when the pandemic is sorted but it will take a long time to wind down its consequences. In terms of consumption it generated two major implications: essential / basic foodstuffs increased significantly their importance into the shopping bag. The other one is to buy national to support the economy and the Portuguese producers. While the former is helping the meat consumption in some way, the later goes against the perceived imported meat. People erroneously believe that imports can be replaced by domestic production.

- With people obliged to stay at home due to confinement and HORECA restrictions, the Retail won the most from this situation. In particular those with higher distribution clout and better organized for on-line sales and delivery, although the later regarding meat is not relevant yet.
- The pandemic situation is pushing consumers to reduce the time of the shopping act so it will be as short as possible. We've also seen discounters such as Lidl, Aldi, Minipreço (and Mercadona as well) benefiting from the fact they are more efficient to serve the consumer for their more basic foodstuffs. And while in the past discounters were not selling meat because of the complicating element of what involves to set up a butchery operation on that shopping environment, it is no surprise they moved shifftly with pre-packed portioned meat through self- service counters.
- Continente, the leading Portuguese retailer, set-up a large meat plant, SOHI Food Solutions, in partnership with Hilton Foods to develop the pre-packed range under their PL label mainly for Pork, but to expand to Beef and Sheep as well. The objective was to migrate the business from the butcher corners of the shops to the self-service counters. To manage butchery operations in hypermarkets became increasingly difficult due to manpower issues, controlling meat yields, manage shelf presentation and display as inadequate consumer service. Having moved from independent butchers to supermarkets, the more traditional Portuguese consumer has been buying the old way, on the butcher corners of the shops. People suspect the condition and freshness of the packs wrapped locally and sold through the shelves, despite having to queue for sometime to get that particular cut of meat or prefer slicing / grinding on the spot. Under today's pandemic situation that became a big problem as people tend to agglomerate around the butcher corner for quite some time and in short distance. That is propelling the consumer to move to the self-service counters to make their purchases fast and more secure. So, as long as the offer at the self-service display is varied and qualitative, such trend will be irreversible.
- Brexit could have a been a big blow to the business but in the end it came out with a trade deal which means the best possible outcome. Of course there will be a new cost attached to the bureaucracy and admin inevitable to overcome the border controls and that could impact more negatively the business where shelf life is critical such as Lamb carcasses. But we believe that those will be incorporated in the process as the experience will grow on handling these subjects.

B.2) OBJECTIVES

The commodity business as it is the case with undifferentiated meat is volatile and subject to many factors which cannot be controlled. From natural hazards to diseases or changing rules and constraints, all impact the competitiveness of the business, such as prices and availability with significant consequences on the exported business and very little can be done to counter those.

[REDACTED]

[REDACTED] By building a reputation for the UK Meat, part of the business will be protected on the

longer term and more resistant to those shocks. [REDACTED]

B.3) THE SERVICES

To reach those objectives, the current operation in Portugal enables GSP to provide the following services for AHDB Beef & Lamb

1) Contact list management

GSP retains and manages a list of local contacts such as

- [REDACTED]

[REDACTED] been informed of the AHDB participation at Int'l Exhibitions and events that can be relevant to them such as SIAL / ANUGA or ALIMENTARIA BARCELONA.

Key importers have also been invited to visit AHDB stands at those shows as well as guests at the correspondent formal dinners.

With the leading importers such as [REDACTED] we discuss the support package we provide and ongoing activities according to plan.

2) Monthly Activity Report to AHDB

Such Report should contain

- [REDACTED]

3) Desk and Outsourced Research

This can be done ad-hoc for specific projects which might be requested but besides that we provide 2 reports every year relating to specific pieces of information:

3.1) KWP Report

We have been contracting [REDACTED] an annual study referring to the HOME consumption of Beef, Pork & Lamb. This is available [REDACTED] every year and it is carried out by collecting the consumption info from a national consumer panel [REDACTED] households. It indicates total market volumes, values, prices per each product group as well as socio- demographic info of the meat consumers, market shares of the different distribution channels and of the retail chains in volume and value terms. It is a rather reliable and solid piece of info that is also quite good value for money. [REDACTED]

3.2) Annual Report of the Meat Consumption, Production and International Trade from [REDACTED] As soon as the [REDACTED] publishes the info relating to Meat Production in Portugal for the previous year, we assemble that info with the one from international trade to generate the Annual Consumption figures. Those can be compared with the [REDACTED] to deliver the estimates for the Food Service / Hospitality / Industry and other Out-of-Home consumption segments. It also can serve as a benchmark for comparison with the Export figures provided by AHDB which don't reflect accurately the whole of this business from UK into Portugal

4) Account Management Function

By this we mean to support individual UK B&L companies on their in-roads to approach the Portuguese market.

What GSP has been doing to support the UK processors to get the business is

- "door opening" activities: [REDACTED]

- "Relationship Support" activities: [REDACTED]

It continues to be a fact that retailers privilege the supply from an importer than dealing directly with the exporter at least for UK meat products due to the low volumes involved and seasonal character of the business. The exception is during Christmas time when Lamb volumes are high and retailers buy FTL's of carcasses. Other than that, importers provide a service to the buyers based on logistics management, local packaging, admin and credit.

GSP has managed to develop excellent relationships with the key traders / importers, after perceiving the ongoing critical role they continue to provide to the supply chain.

As the first point of contact in Portugal to start developing business for UK Beef & Lamb processors, GSP can evaluate which should be the best route for the processor and guide him through the process.

5) Promotional Activities and Packaging developments

5.1) Retail

For the last 3 years, the business of UK Beef and Lamb in Portugal has been evolving up the value chain.

5.1.1) Lamb

Until 2017, the only way one could buy UK Lamb was through carcasses which were deboned on the point of sale previous to Christmas. Lamb was perceived as a heavy and complicated food that only the grand mothers knew how to cook in special occasions or regions such as Alentejo where it is heavily linked to tradition. As such its attractiveness was poor, their base cliente- agência getting aged and consumption consistently going down.

The result was a big success so that we can now find the QSM Lamb range in leading portuguese retailers in many of their shops in main cities, where the prospected consumer is most likely to grab them.

On the line is the possibility to extend the current range of the 3 skus (Carré sliced, cutlets and Rump steaks) to 2 more: Deboned Shoulders and Whole Carré.

Those items are vacuum packed and we are developing an adequate packaging featuring the QSM brand and relevant info such as recipes and product features. We have tried a carton before but it will use too much space on the shelf, unlikely to get approval from the retailer.

Such project was on hold due to the uncertainty of the Brexit outcome but it will now be able to move forward as Brexit is now out of the way. Current challenges lie finding the best solution to Once those issues will be dealt with, the new packs will be terrific additions to the current offering. The shelf space used by the QSM Lamb will double, adding more preparation possibilities. As

such, the appealing extended range will enhance awareness and trial, therefore expanding the consumption of the UK Lamb in the Portuguese market.

5.1.2) Beef

The consumption Beef in Portugal is on the range of 18 Kgs / head, substantially higher than the Lamb one which is about 2 Kgs / head. Being the market much larger, there should be higher volume opportunities for UK processors than in Lamb, but in reality the exports of the later are higher. Explanation is easy: UK Lamb benefits from a window opportunity before Christmas when volumes are the highest while price is competitive. At the same time, there was no product differentiation and we are leading on that front. As far as Beef is concerned, the higher price of UK raw material against competition from Spain and Poland as well as the quality image of South American products makes it much more difficult for the UK product to compete. Another complicating factor as an outcome of the pandemic situation, the economy is suffering and there is an established mindset to help the Portuguese production on those sensitive sectors such as Meat as referred above. As a consequence, all Beef (and Lamb) products of Portuguese origin are marketed as "National origin" by retailers. Veal from DOP North locations as well as beef from Alentejo and the Azores are promoted by producers and supported by retailers on the premium segment. On the current year, the situation was even more aggravated by the supply constraints and higher UK prices.

Being Beef such an important category for the retailers, they have invested heavily on Private Label. More sophisticated packaging is now being used such as skin packs supplied by NIPA as it is the case of Continente / Sonae or pushing for the Black Angus breed as happens both with Continente and Pingo Doce, the later stressing the Portuguese origin. Lidl is also promoting their "Deluxe" PL on Beef, Lamb and Goat under controlled atmosphere packaging. As the quality of packaging and product presentation has improved such as those supplied by NIPA, the modern consumer, more affluent and time constrained has been shifting to the self-service sector.

As far as QSM Beef is concerned, such trend provides more opportunities but not to the extent of those in Lamb. As PL dominates sliced products, retailers will not concede to use QSM logo in their own labels, but NIPA is selling the UK product for most of the Black Angus Beef cuts, as can be seen on the back label. Major problem this year has been the lack of Beef from the UK. To such extent, NIPA has been doing a fantastic job having launched under Black Angus label those items that in the past, the local butcher would select for their loyal clients such as Underblade Fillet, Sliced Feather, Bavette steaks, Cowboy steaks, Skirt or Hanger steaks. Under such new approach, consumer is being told about cuts they didn't know that existed and not only the loins or striploins. That is also proving to be a better valuation of the carcasse, as those can be sold at an higher price.

Apart from those referred above, the cuts which can still provide excellent opportunities for QSM branding are the Picanhas (Rump Cap) and Maminhas (Rump Tip) which come packed by the manufacturer and therefore display the QSM logo such as St Merryn or WD Meats. Both come from the strong ties with the Brazilian Beef culture of "churrasco" or "rodízio". Some years ago it was difficult to convince UK suppliers to go that way, but they learned that a better value could be made out of the Rumps as those items can be pricey in Portugal. It should be no surprise that Picanhas and Maminhas are the most important cuts sold from the UK into the Portuguese market.

So, to summarize on the retail channel, the opportunities remain great for Picanhas and Maminhas which can display the QSM logo and can be promoted as British. The efforts that retailers such as Sonae are making to diversify their pre-packed offering under Black Angus, also provides good business opportunities for those cuts which despite not allowed to be marketed under the QSM banner will be able to show their UK origin to the more curious consumers.

5.2) HORECA

Going into the HORECA channel, it has a much more commodity nature and therefore less obvious to be used as a vehicle to promote the UK origin or even worst a sort of QSM branding. Price and availability are key factors to ensure good penetration except on those items such as Picanhas and Maminhas which are never enough for what the market demands.

So, the conclusion is that on the mainstream or lower value segments of the Beef sector in Portugal, the UK cannot compete as cannot meet price and availability requirements except on a couple of high demand cuts.

On the more premium segment such as Loins, Striploins and Ribeyes, it is not easy either. The well known Portuguese Chefs also push for Portuguese product in particular for those with DOP origin. Here more than buy national is to “buy local” as it is supposed to reduce the carbon footprint and works as a reward for small scale suppliers committed fully to quality. That is something the end consumer values. It is quite difficult to find well known Chefs working in Portugal to voice the merits of the UK meat. They do that in private as many worked in the UK before and know UK meat quite well, but not to a large audience.

Therefore, we don't have a strategy to target the HORECA, except on what can fit into our digital communication plans.

6) Print & Digital Media

Having achieved relevant shelf space mainly through pre-packed Lamb (Beef to a lesser extent and only through suppliers's brands as per those referred above) it would be necessary to develop support communication to the QSM and related products.

We've started in 2019 and continuing through 2020, with a print media campaign in Observador Gourmet magazine. Observador started as a digital news media project targeting the A-economic and social class group, roughly 15% of the population. It has been achieving its targets through the news and political analysis developing a substantial knowledge base of the upper and higher classes which were not well represented elsewhere. It has moved to the lifestyle and gourmet sectors with the annual printed magazine and custom made sponsored content. The quality of the content and publishing is outstanding enabling the advertisers to deliver info on more complex topics while at the same time developing a brand reputation with their readers. That is why we decided to team with them having published double-page contents in their annual gourmet magazine for the last 2 years. At the same time, we both produced 5 digital campaigns expanding on critical red meat issues relating to the Meat in general while bringing attention to the QSM Beef & Lamb. Only the last one, has reached over 20,000 readers with an average time of 4 mins reading, 4,500 shares and 110,00 reach on Facebook.

From the beginning of 2020 we understood it would be quite difficult to implement the Promotional Plan with supermarket demos due to covid. As a consequence we decided to anticipate our website creation project and had the time to develop the contents far ahead of what we had originally envisaged. After 6 months of intense work, on August 2020 we gave birth to

bifelovers.pt which we are quite proud of. That is supposed to work as the reference destination for anyone interested in red meat and willing to know more about the subject.

Having launched the website, it was necessary to promote it. As such,

- it was the focus of the last campaign with the Observador printed magazine
- Since then all digital published content in Observador links to the website so that people can learn more about the subject
- A major campaign was done with the Carne magazine, the only one magazine in Portugal dedicated to Meat in November 2020. We were on the main page together with an interview published along 5 pages. Carne prints 15,000 magazines and has a digital reach of 100,000 readers.
- Started in November a SEO campaign
- We have defined what are the best words that people use in Google to search meat related content. Since December, we are running a AdWords campaign so that we can be on top of the list of the browser when delivering the search results. Through trial and error we are fine tuning with the specialized agency every 2 weeks the words and sentences which we learn to be the most adequate and investing on them.
- From December 2020, we have opened Facebook and Instagram Bifelovers' pages having the agency to generate content from the website and publish through those pages. FB and INSTA are quite powerful tools to pass relevant content through short statements that people can absorb while at the same time to get awareness of the website for those who want to learn more on these subjects. At this time we've already built a community of 5,000.

Our target is to create a large enough community with whom we can communicate (indoctrinate) and pass the relevant info. Overall, the Portuguese consumers even those heavy meat eaters are ignorant about Red Meat. The more and better informed, the more knowledgeable they will be and, as a consequence, the higher awareness, interest and trial permissive they will be on the UK Meat. That is why it is so critical to build a brand reputation on QSM.

The advantage of social media today, is that we can reach directly a target audience who follows us. Print media is also important as a way to build our digital coverage. In the future we can also use such tool, to work directly with retailers and importers to promote the QSM products in the stores and increase sales. Our target is to aim a target of 10,000 to 20,000 followers until the end of 2021. From there we can develop a whole promotional program behind that to trigger consumers to the point of sale.

That is why we are putting digital communication at the core of our marketing effort. Opposed to the mass media channels we can build on that every day to produce a very powerful tool in the mid to longer term.

At the same time, this tool can be very useful to importers which means we will build goodwill and create a strong and lasting bond with them, strengthening the whole supply chain.

7) Inward Missions to the UK

We are strong believers on the success of these initiatives, in particular if the trip to the UK will enable the target visitors to understand the unique characteristics and superiority of the UK product.

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Yvoire in 2022

- TM to Senegal (plus Liberia / Guinea) to schedule for 2023 if not earlier

II. PROJECT PLAN

This project plan is constrained by the pandemic situation which will for sure affecting the plan and some of the activities for the 1st half of 21/21

Nevertheless, this plan bears in mind the pandemic will be overcome by the end of September.

It is very difficult at this stage to plan how 22/23 will be. We could follow on the general rules of 21/22 but for sure other ideas will arise as such as the outcome form next year to guide on the future plan for 22/23

1) 1st Half 21/22

- [REDACTED]

2) 2nd Half 21/22

- [REDACTED]

- [REDACTED]

III. RECOMMENDATIONS TO INCREASE THE SALES OF UK LAMB & BEEF IN PORTUGAL & AFRICA

A) PORTUGAL

A.1) BEEF

- [REDACTED]

A.2) LAMB

- [REDACTED]

[REDACTED]

It should not go without saying that, the under the current Lamb prices, this will almost impossible to reach those targets, so we expect them to come down to more acceptable levels.

B) AFRICA

- [REDACTED]

VI. [REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

That means the trend is a quite positive one as we are getting better results every new article

[REDACTED]

V2 CASE STUDY 2: [REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

That turned out into an agenda and schedule that was provided to the participants of the meetings

[Redacted]

VI. MONTHLY MARKET REPORT PORTUGAL FOR JANUARY 2021

1. TRADE PROMOTIONS

[REDACTED]

1.B) [REDACTED]

2. MARKET NEWS

2.1) LAMB

[REDACTED]

2.2) [REDACTED]

[REDACTED]

3. MAIN ACTIVITIES

[REDACTED]

3.1) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

BUSINESS PROCEDURES IN CASE OF FORCE MAJEURE

[REDACTED]

[REDACTED]

A) MOST SERIOUS: SITUATIONS WHICH OCCURED IN THE UK DEALT AT EULEVEL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B) INTERMEDIATE: SITUATIONS THAT HAVE OCCURRED IN PORTUGAL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C) LOW: SITUATIONS WHICH AFFECT THE MEAT IN GENERAL, NOT UK IN PARTICULAR

[REDACTED]

The absence of negative elements or the occurrence of positive ones is important to virtually any product but it is more important to meat in particular.

[REDACTED]

[REDACTED]

Pricing Schedule

Pricing Schedule for Representation work for Portugal		
		€
Hourly Rate		
Scope	Estimated hours	
Organize and Implement In-store Marketing Activities		
New packaging briefing, discussion with importer, evaluation & implementation		
Discuss Monthly Report from digital activities, evaluation and follow-up		
Discuss & Evaluate consumer promotions in digital media		
Discuss & Evaluate retail promotions with importers and agency: retailer leaflets / leverage through		
Discuss, Evaluate & approve content to be published through Observador		
Regular contact with importers to assess the market, visits and meetings		
Potential organization of an Inward Mission UK		
Participation in fairs (Anuga & Others)		
Reporting to AHDB, meetings participation		
Total Estimated		
	Budget 2021/22	€
In-store		
New Packaging Lamb QSM Shoulder & Racks		€
FB Instagram, blog & Google Ads Management		€
FB, Instagram campaigns, promotions		€
Observador Campaigns		€
Inward Mission UK		€
Travel		€
Total Marketing Spent 21 /22		€
TOTAL CONTRACT SPENT		€ 90,000.00
Any additional ad-hoc activity would be at the tendered hourly rate		