

Terms and Conditions of Sale of Grain and Pulses

The Buyer's attention is drawn in particular to the provisions of condition 6.3

1. Interpretation

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Acceptance: the Company's written acceptance of the Order on the basis of these conditions and the documents referred to in condition 2.1.

Buyer: the person, firm or company who makes an Order.

Buyer Conditions: any terms and conditions of purchase used by the Buyer and expressly agreed in writing by the Company to be incorporated into a Contract.

Company: Organic Arable Marketing Company Limited.

Contract: the Order and the Acceptance.

Goods: any goods agreed in the Contract to be bought by the Company from the Seller (including any part or parts of them).

Order: the Buyer's order for Goods on the basis of these conditions and the documents referred to in condition 2.1.

Seller: the person, firm or company who produces the Goods, being a member or members of the Company's marketing group or another person, firm or company for whom the Company provides marketing services from time to time.

2. Application of terms

2.1 The following terms and conditions shall govern the Contract to the entire exclusion of all other terms or conditions in the following order of priority:

- (a) any Buyer Conditions;
- (b) these conditions;
- (c) the terms of the following contracts (in each case being the latest version of such contracts available as at the time of delivery of the Goods):
 - (i) AIC 1 (where the Seller is a farmer or grower)
 - (ii) AIC 2 (where the Seller is a trade supplier)

2.2 The Buyer acknowledges that in entering into a Contract the Company is acting as the agent of the Seller for the sale of the Goods. Each Order by the Buyer to the Company (as agent for the Seller) shall be deemed to be an offer by the Buyer to the Seller to purchase Goods from the Seller subject to these conditions and no Order shall be accepted until the Company issues to the Buyer an Acceptance. In the event that the Buyer has not within ten business days of the Order received an Acceptance from the Company, the Buyer shall notify the Company of this fact. If, upon receipt of an Acceptance, the Buyer is aware that there is an error in the details of such Acceptance, the Buyer shall notify the Company as soon as reasonably practicable, and the Company shall issue a revised Acceptance. The Buyer's attention is drawn to the provisions of condition 3.1.

2.3 Unless otherwise expressly agreed in writing by the Company, no terms or conditions endorsed upon, delivered with or contained in any document provided by the Buyer to the Company shall form part of the Contract and the Buyer waives any right which it otherwise might have to rely on such terms and conditions.

2.4 These conditions apply to all sales of Goods arranged by the Company on behalf of a Seller and any variation to these conditions shall have no effect unless expressly agreed in writing and signed by a director or grain trader of the Company.

3. Quality

3.1 Specifications of quality of Goods shall be as set out in the Acceptance and in the relevant contract under condition 2.1(c) above (whichever specification is the less stringent).

4. Delivery

4.1 Delivery shall take place as follows:

- (a) (where the Goods are to be collected from the Seller's premises) the Company shall procure that the Seller shall make the Goods available for collection on the date notified to the Company by the Buyer in accordance with the relevant contract as listed in condition 2.1(c);
- (b) (where the Goods are to be delivered to the Buyer's premises) the Goods shall be delivered, carriage paid, to the Buyer's place of business or to such other place of delivery as is agreed by the Company in writing prior to delivery of the Goods.

4.2 The Company shall procure that each delivery is accompanied by a delivery note which shows, among other things, the Contract number, tonnage of Goods supplied and assurance status of the Goods.

4.3 The Company agrees that the Buyer shall have the right upon written notice to the Company to amend the movement period defined in the Acceptance and/or the relevant contract under condition 2.1(c) above by extending it by a period of 14 days. In the event that the Buyer so extends the movement period, the price for the Goods shall be increased by the sum of £2.00 per tonne for each month of extension.

4.4 Time for delivery shall not be of the essence save that if the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, the Buyer may cancel the Contract in whole or in part.

5. Risk/property

The Goods shall as between the parties remain at the risk of the Company until delivery to the Buyer is complete (including off-loading and stacking) when ownership of the Goods shall pass to the Buyer.

6. Price

6.1 The price of the Goods shall be stated in the Acceptance and unless otherwise agreed in writing by the Company shall be exclusive of value added tax but inclusive of all other charges.

6.2 No variation in the price nor extra charges shall be accepted by the Company save for:

- (a) weighbridge charges incurred in delivery of the Goods; and
- (b) conditioning charges agreed in advance with the Company.

6.3 The Company may from time to time provide the Buyer with general information and comments about the then-current market price for Goods and then-current market trends. In doing so, the Company is merely reflecting the state of the market as at the time of such information and/or comment, and no warranty or representation is given as to the performance of the market at any time after such information and/or comment is given. The Company shall not be liable to the Buyer in any way on the basis that the actual performance of the market does not accord with the information and/or comments given.

7. Payment

- 7.1 The Buyer shall pay the price of the Goods within 28 days of receipt of the Goods save that, where the Company's insurance provider has declined to offer credit insurance in respect of a particular Buyer, such Buyer shall pay the price of the Goods upon request of the Company on or before delivery. The invoice shall be provided to the Buyer on delivery of the Goods, and the Buyer shall be required to notify the Company of any error in such invoice as soon as reasonably practicable after it becomes aware of such error.
- 7.2 Time for payment shall be of the essence of the Contract and the Company shall be entitled to suspend delivery of any Goods to the Buyer as a result of any sums being outstanding.
- 7.3 Without prejudice to any other right or remedy, the Company reserves the right to set off against any amount owing at any time from the Company to the Buyer any amount payable by the Buyer to the Company under the Contract or otherwise, including without limitation:
- (a) any underpayment made by the Buyer to the Company in respect of any previous invoice (including without limitation where the Buyer has failed to inform the Company that an invoice has been issued in an incorrect amount);
 - (b) any costs, expenses, fees or other loss incurred by the Company as a result of delivery having been delayed by the act or omission of the Buyer; and
 - (c) the amount of any dispute between the Buyer and the Company upon which an agreement has been reached by the parties, or a final ruling has been given by a competent court, arbitrator or authority.

8. Confidentiality

The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Company or the Seller or their agents and any other confidential information concerning the Company's or the Seller's business or its products which the Buyer may obtain and the Buyer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Buyer's obligations to the Company and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Buyer.

9. The Company's property

Materials, equipment, tools, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications, forms and data supplied by the Company to the Buyer or not so supplied but used by the Buyer specifically in the provision of the Goods shall at all times be and remain the exclusive property of the Company but shall be held by the Buyer in safe custody at its own risk and maintained and kept in good condition by the Buyer until returned to the Company and shall not be disposed of other than in accordance with the Company's written instructions, nor shall such items be used otherwise than as authorised by the Company in writing.

10. Termination

- 10.1 The Company shall have the right at any time by giving notice in writing to the Buyer to terminate the Contract forthwith if:
- (a) the Buyer commits a material breach of any of the terms and conditions of the Contract; or
 - (b) any distress, execution or other process is levied upon any of the assets of the Buyer; or
 - (c) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the

time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

- (d) the Buyer ceases or threatens to cease to carry on its business; or
- (e) the financial position of the Buyer deteriorates to such an extent that in the opinion of the Company the capability of the Buyer adequately to fulfil its obligations under the Contract has been placed in jeopardy.

10.2 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of the Company accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

11. Remedies

Without prejudice to any other right or remedy which the Company may have, if any Goods are not supplied in accordance with, or the Buyer fails to comply with, any of the terms of the Contract the Company shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Company:

- (a) to rescind the Contract;
- (b) to refuse to make any further deliveries of the Goods without any liability to the Buyer;
- (c) to claim such damages as may have been sustained in consequence of the Buyer's breach or breaches of the Contract.

12. Assignment

12.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

12.2 The Company may assign the Contract or any part of it to any person, firm or company.

13. Force majeure

The Company reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods to be delivered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, 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), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials and including in all cases and without limitation where the Company is unable to obtain Goods on the basis of the Seller undergoing any such circumstances.

14. General

14.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

- 14.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 14.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 14.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 14.6 In the event of any dispute under the Contract or in respect of these conditions, the arbitration provisions of the relevant contract under condition 2.1(c) shall apply.
- 14.7 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.