

TERMS OF SALE

1 Interpretation

1.1 In these Terms:

“ACCEPTANCE FORM” means the Seller’s written acceptance of the Buyer’s order;

“BUYER” means the person named as Buyer in the order form or the Seller’s Acceptance Form;

“CONDITIONS” means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and Seller;

“CONTRACT” means the contract for the purchase and sale of the Goods;

“GOODS” means the Products and/or Services set out in the attached Schedule to the Supply Agreement between Buyer and Seller or any other Products agreed to be sold and supplied in accordance with these Conditions;

“SELLER” means Moy Park Limited (registered in Northern Ireland under number NI4842) or any subsidiary thereof;

“WRITING”, and any similar expression, included facsimile transmission and comparable means of communication, but not electronic mail.

1.2 A reference in these Terms to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Terms are for convenience only and shall not affect their interpretation.

2. Basis of Sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any order of the Buyer which is accepted by the Seller, subject to these Conditions, which shall govern the Contract to the exclusion of any other terms subject to which any order is made or purported to be made by the Buyer.

2.2 No variation to these Terms shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these Terms affects the liability of either party for fraudulent misrepresentation.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted on entirely at the Buyer’s own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation,

price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. Orders and Specifications

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller.
- 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order and any quantity, quality and description of the Goods shall be as set out in the Buyer's order (if accepted by the Seller).
- 3.3 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

4. Price of the Goods

- 4.1 The price of the Goods shall be the Seller's quoted price.
- 4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

5. Terms of Payment

- 5.1 The Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has tendered delivery of the Goods.
- 5.2 The Buyer shall pay the price of the Goods within 28 days of the date of the Seller's invoice, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only on request.
- 5.3 If the Buyer fails to make any payment on the due date then, without limiting any other right or remedy available to the Seller, the Seller may:
 - 5.3.1 cancel the contract or suspend any further deliveries to the Buyer;
 - 5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 5.3.3 charge the Buyer interest (both before and after any judgment) on the amount

unpaid, at the rate of 5 per cent per annum above Barclays Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. Delivery

- 6.1 The Seller shall deliver the Goods to the Buyer at the place for delivery as agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date on giving reasonable notice to the Buyer.
- 6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.4 If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.5 If the Buyer cancels or postpones any order or fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without limiting any other right or remedy available to the Seller, the Seller may:
 - 6.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 6.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
 - 6.5.3 if the Seller is unable to sell the Goods within 48 hours of the cancellation of the order or the Buyer fails to take delivery of the Goods then the Seller reserves the right to deal with the Goods in any manner which the Seller in its absolute discretion deems fit.
- 6.6 The Buyer may only refuse to take delivery of any Goods which are unfit for the purpose for which they were supplied or which differ in a material degree from those ordered, provided that the Buyer:
 - 6.6.1 notifies the Seller forthwith by telephone and facsimile of the number or item of Goods he refuses to take delivery of and the reasons for such refusal; and
 - 6.6.2 consigns such goods of which he refuses to take delivery in accordance with the instructions of the Seller (which shall be given without prejudice to the Seller's rights under this Condition):
 - (a) where some of the Goods supplied by the Seller may be rejected under this Condition, the Buyer shall not be entitled to reject any other Goods comprising

- the same delivery or order; and/or
- (b) if the Seller is satisfied that the Buyer was justified in his refusal to take delivery of any Goods, the Seller will credit the Buyer with the invoice price of the rejected Goods or as soon as practicable supply the Buyer with replacement Goods of a similar age.

7. Risk in Property

- 7.1 Risk or damage, injury, or loss of the Goods shall pass to the Buyer at the time of delivery, or if the Buyer wrongfully fails to take delivery of the Goods, at the time when the Seller has tendered delivery of the Goods.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer may resell or use the Goods in the ordinary course of its business.
- 7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller may at any time require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, enter on any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

8. Warranties

- 8.1 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law, are excluded to the fullest extent permitted by law.
- 8.2 Subject as expressly provided in these Conditions, the Seller shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty of common law, or under the express terms of the Contract, for any consequential loss or damage (whether loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller or its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their subsequent condition.
- 8.3 For the avoidance of doubt, the provisions of Condition 8.2 shall apply mutatis mutandis in respect of any claim, howsoever arising, and which concerns or relates to other Goods received by the Buyer and which have been subsequently further processed and/or packaged by the Buyer for sale to a third party.
- 8.4 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract

by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control, including, but without prejudice to the generality of the foregoing, disease, act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of the Government, Parliament or local Council, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party), power failure or breakdown in machinery.

- 8.5 The Buyer has taken all reasonable steps to comply with the provisions of the Bribery Act 2010 as it affects the Buyer's business including its employees and any third parties it may use in the course of its business and from time to time, at the reasonable request of the Seller, it will confirm in writing that it has complied with the provisions of the Bribery Act 2010 and will provide any information reasonably requested by the Seller in support of such compliance.

9. Insolvency

- 9.1 This clause 9 applies if:

- 9.1.1 the Buyer makes a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 9.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- 9.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
- 9.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

- 9.2 If this clause applies then, without limiting any other right or remedy available to the Seller, the Seller may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

10. Export

- 10.1 Where the Goods are supplied for export from France, the provisions of this clause 10 shall (subject to any special terms agreed in Writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 10.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- 10.3 Unless otherwise agreed in Writing between the Buyer and the Seller, the Goods shall be delivered to the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979. On delivery to the air or sea port of shipment all risk in the Goods shall pass to the Buyer and the Seller will therefore not be liable for any loss or damage or deterioration including death of birds in transit. As a separate agreement, should the Buyer require, the Seller may arrange for freight and insurance at the cost of the Buyer.

- 10.4 The Buyer shall be responsible for arranging for testing and inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
- 10.5 Unless otherwise agreed, between the Buyer and seller, payment in full of all Goods Ordered, including freight and insurance, as applicable, must be made [within 28 days] before the proposed date of shipment. If payment in full has not been received before the date of shipment the Seller may sell the Goods ordered and claim any loss incurred as a result from the Buyer. Payment must be made by cheque drawn on a British bank Postal Order, Bank Draft or by Confirmed Irrevocable Letter of Credit in the Seller's name but so that in any case all exchange risks are borne by the Buyer.

11. Indemnity

- 11.1 The Buyer shall indemnify the Seller against any claim for loss (including consequential loss), damage, expense or otherwise and made by a third party in respect of the Goods, so long as such claim or any part thereof relates to the period after the Goods have been delivered to the Buyer by the Seller.
- 11.2 The Buyer shall further indemnify the Seller against any claim for loss (including consequential loss), damage, expense, or otherwise and made by a third party in respect of any Goods which are or have been on any premises of the Buyer, and which are not the Goods supplied under these Conditions.

12. General

- 12.1 The Seller is a member of a group of companies, and accordingly the Seller may perform any of its obligations or exercise any of its rights under the contract by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Seller.
- 12.2 A notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principle place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 12.3 No waiver by the Seller of any breach of the contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 12.4 If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
- 12.5 Any dispute arising under or in connection with the Contract or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of National Farmers Union, in accordance with the provisions of the Arbitration Act 1996.
- 12.6 The Contract shall be governed by the laws of Northern Ireland, and the Buyer agrees to submit to the non-exclusive jurisdiction of the Northern Irish courts.