

**TERMS AND CONDITIONS OF PURCHASE OF  
GRAIN, CEREALS, PULSES, LINSEED AND OILSEED RAPE**

**The Seller's attention is drawn in particular to the provisions of condition 9.1**

**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 Offer on the basis of these conditions and the documents referred to in condition 2.1.

**Company:** Cefetra Limited

**Contract:** the Offer and the Acceptance.

**End-receiver Conditions:** any terms and conditions of purchase used by end-receivers of Goods.

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

**Offer:** the Seller's offer to sell the Goods to the Company on the basis of these conditions and the documents referred to in condition 2.1, which offer may be made: (i) over the telephone; or (ii) in writing by post, courier, facsimile transmission or e-mail.

**Seller:** the person, firm or company who makes an Offer, and the Seller acknowledges that, where the Offer is made through an agent, broker, manager, contractor or other representative of the Seller, the Company shall be entitled to rely on the instructions and communications from such representative as if they were directly from the Seller, and the Seller shall upon request from the Company confirm in writing that such representative is authorised by the Seller in respect of all dealings on the Contract.

**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 End-receiver 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 date of the Contract):
  - (i) AIC 1 (for purchases of grain and pulses from a farmer or grower)
  - (ii) AIC 2 (for purchases of grain and pulses from a trade supplier)
  - (iii) FOSFA 9A (for purchases of linseed) – except for clause 4 Allowances premiums, rejections which does not apply.
  - (iv) FOSFA 26A (for purchases of oilseed rape)

Sellers should have knowledge of the above contracts and they are available on request

2.2 Each Offer by the Seller to the Company shall be deemed to be an offer by the Seller to sell Goods subject to these conditions and no Offer shall be accepted until the Company issues to the Seller an Acceptance. In the event that the Seller has not within ten business days of the Offer received an Acceptance from the Company, the Seller shall notify the Company of this fact. If, upon receipt of an Acceptance, the Seller is aware that there is an error in the details of such Acceptance, the

Seller shall notify the Company as soon as reasonably practicable, and the Company shall issue a revised Acceptance.

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

2.4 The Seller may appoint a person or persons to act as authorised agent(s) of the Seller in respect of Contracts (including without limitation the making of an Offer and entry into a Contract). The Seller shall provide to the Company a list of all such authorised persons and shall notify the Company as soon as reasonably practicable of any change in such list. The Company shall be entitled to treat all persons named on such list as authorised agents of the Seller, and the Seller shall be bound by the acts of such persons under these Conditions, any End-receiver Conditions and the relevant contract under condition 2.1(c) above.

2.5 These conditions apply to all the Company's purchases and any variation to these conditions shall have no effect unless expressly agreed in writing and signed by a Director of the Company.

2.6 The Company does not buy "produce of acres" and any contract which is seemingly concluded between the Company and the Seller on a "produce of acres" basis shall be void.

**3. Quality and defects**

3.1 Specifications of quality of Goods shall be as set out in the Company's Acceptance and in the relevant contract under condition 2.1(c) above (whichever specification is the more stringent). The Goods shall be of the best quality, without fault and shall conform in all respects with the Acceptance and specification.

3.2 Without prejudice to condition 3.1 above, all Goods supplied must:

- (a) be free from ergot, diatomaceous earth/silica dust (and any derivative thereof), mould, insects (dead or alive), animal droppings, green/burnt/heated grain;
- (b) be of acceptable colouring and temperature;
- (c) be of suitable quality to enter into the feed and food chain; and
- (d) (in the case of oilseed crops) not be genetically modified

3.3 The Company prohibits the use of bio-stimulants derived from animal-by-products (e.g. blood, muscles, bone and skin) on cereals supplied for malting or other processing. Bio-stimulants that are prohibited by this clause are sometimes referred to as protein hydrolysates derived from animal-by-products. Bio-stimulants derived from plant based products are acceptable.

3.4 The company will not accept malting barley grown on land treated with biosolids or treated human sludge, even if they comply with the ADAS safe sludge matrix.

3.5 Subject (in the case of non-assured Goods only) to condition 3.6 below, all Goods must as at the date of the Offer and the date of delivery of Goods be produced under a nationally-recognised farm assurance scheme and shall not be genetically modified. The Seller shall notify the Company immediately it becomes aware of any change in the Seller's farm assurance status (including any change of farm assurance scheme) or if the Seller at any time begins to produce genetically modified Goods (in which event the Seller shall in respect of all Goods intended to be supplied under these Conditions identify to the Company at the time of the Seller's Offer those Goods which are or are intended to be genetically modified). In the event that the Company becomes aware that the Seller has (other than under condition 3.6 below) supplied non-assured or genetically modified Goods to the Company, the Company may reject the entire consignment of Goods supplied

(regardless of whether the non-assured or genetically modified Goods form the whole of such consignment or only part).

- 3.6 The Company may, at its absolute discretion, decide to purchase non-assured Goods from the Seller. In such case:
- (a) (where the Company becomes aware that the Goods are non-assured after an Acceptance has been issued) the Company and the Seller shall seek to agree a reduced price for such non-assured Goods;
  - (b) (where an Acceptance is issued in respect of the Goods following notification that the Goods are non-assured) the Seller shall check the Acceptance delivered by the Company to ensure that the description of the Goods contained in such Acceptance refers to them being non-assured. If the Goods are not so described, the Company shall be deemed not to have been notified that the Goods are non-assured; the Seller shall notify the Company immediately and the Company and the Seller shall negotiate in good faith as to whether the Company shall purchase such Goods and at what price;
  - (c) where the Acceptance (or any replacement Acceptance) identifies the Goods as non-assured, the Seller shall ensure that the non-assured Goods are packaged and delivered separately from any assured Goods and clearly marked as being non-assured Goods under a specific contract number. The Seller shall not be permitted to supply both assured and non-assured Goods under the same contract number.
- 3.7 At any time prior to delivery of the Goods to the Company, the Company shall have the right to inspect and test the Goods or a sample thereof.
- 3.8 If the results of such inspection or testing cause the Company to be of the opinion that the Goods do not conform or are unlikely to conform with the Offer or to any specifications supplied or advised by the Company to the Seller, the Company shall inform the Seller and shall have the right (without prejudice to its other rights and remedies under these conditions or under common law) to reject the Goods.
- 3.9 The Company will upon request provide the Seller or its authorised representative with a sealed sample of the Goods for the purposes of retesting. Requests for retesting of Goods must be in writing and received by the Company within five business days of delivery of the Goods. Where the Seller require that the Goods are retested, the cost will be recharged in full to the seller unless the End-receiver waives the charge on the basis of the results of the re-test.
- 3.10 Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Seller's obligations under the Contract.
- 3.11 In delivering Goods, the Seller acknowledges that any end-receiver will have rights and remedies available to it in the event that such Goods do not comply with contractual specifications. Where such end-receiver wishes to exercise its rights and remedies, the Company shall (except in the case of a proposed reduction in the price to be paid for Goods which amounts to £3.00 per tonne or less, in which case the Company shall not be under any obligation to attempt to contact the Seller before agreeing any reduced price) use all reasonable endeavours in view of the time available to it (and without the Company being under any obligation to delay where such delay would cause it to incur demurrage or similar charges) to contact the Seller to discuss the options available to it in respect of such Goods however, in the event that the Company is not able to contact the Seller, the Seller agrees that the Company shall be authorised to use its own judgement in negotiating with the end-receiver any reduction in price or rejection (or part rejection) of the

Goods, and the Seller agrees that the Seller shall account to the Company for any such reduction in price or rejection (or part rejection).

#### 4. Delivery

- 4.1 Delivery shall take place as follows (it being acknowledged that delivery may, as agreed between the Company and the Seller, take place by the Company collecting the Goods from the Seller's premises):
- (a) (where the Goods are to be collected from the Seller's premises by hauliers contracted by the Company) the Seller shall make the Goods available for collection on the date notified to the Seller by the Company. The Company shall provide as much notice as reasonably practicable of delivery dates for the Goods, but it shall not constitute a breach of the Contract should the notice given to the Seller be less than that prescribed in the relevant contract as listed in condition 2.1(c);
  - (b) (where the Seller is arranging haulage) the Goods shall be delivered, carriage paid, to the Company'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. The Seller shall off-load the Goods at its own risk as directed by the Company. Vehicles and drivers must comply with the AIC Code of Practice for Road Haulage and health and safety rules in force at the place of delivery.
- 4.2 Delivery shall be made in loads of 29 tonnes. Where any load supplied by the Seller is less than 29 tonnes, the Company reserves the right to charge to Seller for additional haulage costs incurred in transporting such part-load.
- 4.3 The Seller shall ensure that each load is accompanied by a properly completed Post Harvest Treatment Declaration (Passport).
- 4.4 The Seller agrees that the Company shall have the right upon written notice to the Seller 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 Company so extends the movement period, the price for the Goods shall be increased by the sum of £0.50 per tonne.
- 4.5 Time for delivery shall be of the essence.
- 4.6 Unless otherwise stipulated by the Company in the Acceptance, deliveries shall only be accepted by the Company in normal business hours.
- 4.7 If the Goods are not delivered on the due date (or, where delivery is to take place by collection by the Company of the Goods at the Seller's premises, the Company is not able so to collect the Goods due to the act or omission of the Seller (and for the avoidance of doubt not the Company's own act or omission, the Seller having notified the Company of the availability of the Goods for collection and allowed the Company or its representatives or agents access for the purposes of collecting the Goods)) then, without prejudice to any other rights which it may have, the Company reserves the right to:
- (a) cancel the Contract in whole or in part;
  - (b) refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
  - (c) recover from the Seller any expenditure reasonably incurred by the Company in obtaining the Goods in substitution from another supplier; and
  - (d) claim damages for any additional costs, loss or expenses incurred by the Company which are in any way attributable to the Seller's failure to deliver the Goods on the due date.

Any dispute over the Company's exercise shall at the request of the Seller be referred to arbitration in accordance with the terms of the relevant contract under condition 2.1(c) above.

- 4.8 If the Goods are delivered to the Company in excess of the quantities ordered the Company shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and shall be returnable at the Seller's expense.

**5. Weighbridge Charges**

A weighbridge charge of £0.28 per tonne (plus VAT if applicable) will be levied on the gross weight of all deliveries and collections.

**6. Risk/property**

The Goods shall remain at the risk of the Seller until delivery to the Company is complete (including off-loading). Ownership of the Goods shall pass to the End-receiver once the End-receiver has accepted such Goods following any and all testing/re-testing and conditioning processes have been completed.

**7. Price**

- 7.1 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, weighbridge charges and any applicable levies but inclusive of all other charges, which shall be payable by the Seller in accordance with condition 8 below.

- 7.2 No variation in the price nor extra charges shall be accepted by the Company from the Seller.

**8. Payment**

- 8.1 The Company shall pay the price of the Goods 28 days following movement.
- 8.2 Time for payment shall not be of the essence of the Contract and the Seller is not entitled to suspend delivery (including without limitation where the Goods are to be collected by the Company from the Seller's premises) of the Goods as a result of any sums being outstanding for a period of 28 days or less.
- 8.3 The Company will on the Seller's behalf raise and supply to the Seller an invoice in respect of the Goods. In preparing such invoice, the Company shall deduct from the price payable to the Seller the full amount of any and all weighbridge charges and levies payable in respect of the Goods. The Seller shall be required to notify the Company of any error in such invoice as soon as reasonably practicable after it becomes aware of any such error.
- 8.4 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 Seller any amount payable by the Seller to the Company under the Contract or otherwise, including without limitation:
- (a) any overpayment made by the Company to the Seller in respect of any previous invoice (including without limitation where the Seller has failed to inform the Company that an invoice has been issued in an incorrect amount);
  - (b) any charges to be levied against the Seller under condition 3.7;
  - (c) any additional haulage costs to be levied against the Seller under condition 4.2;
  - (d) charges for conditioning work to the Goods carried out by or on behalf of the Company as contemplated in accordance with condition 13(d);

- (e) storage charges owing from the Seller to the Company (whether in connection with the Contract or otherwise); and

- (f) the amount of any dispute between the Seller 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.

**9. Market Information**

- 9.1 The Company may from time to time provide the Seller 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 Seller in any way on the basis that the actual performance of the market does not accord with the information and/or comments given.

**10. Warranties and representations**

- 10.1 Each party warrants and represents to the other that:
- (a) it has the power and capacity to enter into Contracts;
  - (b) each Contract entered into shall be binding upon such party;
  - (c) it has made its own independent decision as to the merits of entering into a Contract and does not rely on any communication, warranty or representation given by the other party which is not expressly set out in the Offer and Acceptance; and
  - (d) the entry into a Contract shall not give rise to any partnership, joint venture or (save as expressly stated) relationship of agency or other fiduciary relationship between the parties.

**11. Confidentiality and telephone recording**

- 11.1 The Seller shall keep in strict confidence all commercial know-how, processes or initiatives which are of a confidential nature and have been disclosed to the Seller by the Company or its agents and any other confidential information concerning the Company's business or its products which the Seller may obtain and the Seller 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 Seller'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 Seller.
- 11.2 The Seller agrees (on its own behalf and in respect of any employee, agent, contractor or other representative of the Seller) that the Company may record any telephone conversation between the Company and the Seller (or its representative) for the purposes of training the Company's staff, or for use in any arbitral or legal proceedings relating to a Contract or otherwise between the Company and the Seller.

**12. The Company's property**

Materials, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications, forms and data supplied by the Company to the Seller shall at all times be and remain the exclusive property of the Company and such items shall not be used otherwise than as authorised by the Company in writing.

**13. Termination**

- 13.1 The Company shall have the right at any time by giving notice in writing to the Seller to terminate the Contract forthwith if:

- (a) the Seller 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 Seller; or
  - (c) the Seller 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 Seller or notice of intention to appoint an administrator is given by the Seller 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 Seller or for the granting of an administration order in respect of the Seller, or any proceedings are commenced relating to the insolvency or possible insolvency of the Seller; or
  - (d) the Seller ceases or threatens to cease to carry on its business.
- 13.2 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.

**14. 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 Seller 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 reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned (plus the full amount of all costs properly incurred by the Company in returning such Goods) shall be paid forthwith by the Seller;
- (c) to refuse to accept any further deliveries of the Goods but without any liability to the Seller;
- (d) to carry out at the Seller's expense any conditioning work (such as drying, cooling or cleaning treatments) necessary to make the Goods comply with the Contract; and
- (e) to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.

Any dispute over the Company's exercise shall at the request of the Seller be referred to arbitration in accordance with the terms of the relevant contract under condition 2.1(c) above.

**15. Assignment**

- 15.1 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
- 15.2 The Company may assign the Contract or any part of it to any person, firm or company with the prior written consent of the Seller (not to be unreasonably withheld or delayed).

**16. Force majeure**

The Company reserves the right to defer the date of delivery (including without limitation delivery by collection at the Seller's premises) or payment or to cancel the Contract or reduce the volume of the Goods ordered 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.

**17. General**

- 17.1 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.
- 17.2 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.
- 17.3 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.
- 17.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 17.5 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. The parties recognise however that any End-receiver will have rights and remedies available to it under the terms of any End-receiver Conditions.
- 17.6 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.
- 17.7 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.