



## TERMS AND CONDITIONS OF SALE AND DELIVERY ADM GROUP AS OF SEPTEMBER 1, 2022

### PART 1 – GENERAL TERMS AND CONDITIONS

These Terms and Conditions of Sale and Delivery apply to all agreements between the **Archer Daniels Midland Group** companies set out in 1.1 (“**ADM**”) and a customer (“**Purchaser**”) for the sale and delivery of goods (“**Goods**”) and services (“**Services**”) from ADM.

#### Section 1 – General

**1.1 ADM company:** ADM International Sàrl, Rolle, Switzerland; ADM Hamburg Aktiengesellschaft, Hamburg, Germany; Archer Daniels Midland Europe B.V., Amsterdam, The Netherlands; Archer Daniels Midland Erith Ltd, Erith, England; Pura Foods Ltd, Erith, England; Archer Daniels Midland (UK) Ltd, Erith, England; ADM Trading (UK) Ltd, Erith, England; ADM France SAS, Saint-Nolff, France; ADM Bazancourt SASU, Bazancourt, France; ADM Razgrad EAD, Razgrad, Bulgaria; ADM Besin Ve Tarim A.S, Adana, Turkey; ADM Morocco S.A., Casablanca, Morocco, the subsidiaries of the above-mentioned companies and other companies under the direct or indirect ultimate control of Archer-Daniels- Midland Company located in Europe, Africa and Middle East and operating in the following ADM business segments of: agricultural services, oilseeds processing, sweeteners & starches, premixes and complete feed, additives and ingredients, zoo-stimulants and laboratories services.

**1.2 Exclusive application.** Where industry standard terms are referred to in the ADM sales confirmation these shall prevail. Subject to the foregoing, the Purchaser acknowledges that all existing and future purchase agreements for Goods and/or Services shall be governed by these Terms and Conditions of Sale and Delivery (referred to hereinafter as the “**Conditions**”) to the exclusion of all other terms and conditions. Any separate purchase conditions of the Purchaser are expressly not acknowledged by ADM. The same shall apply to sales conditions of commercial agents.

**1.3 Contractual subject-matter.** The contractual subject-matter comprises the written sales confirmation from ADM together with these Conditions. In the event of a conflict between these Conditions and any special terms and conditions referred to in the written sales confirmation the latter

shall prevail. Any subsidiary oral arrangements are subject to confirmation in writing by ADM. The failure on the part of the Purchaser to return the counter-signed sales confirmation to ADM shall not affect the validity of the terms stated above and hereinafter.

#### Section 2 – Order and delivery

**2.1 Order, modification of order.** No order shall be deemed accepted by ADM without written confirmation by ADM or, if earlier, without delivery of the Goods and/or Services by ADM to Purchaser. Any request by Purchaser to change or cancel an order may only be considered if received in writing prior to ADM’s acceptance of such order.

**2.2 Scope of duty to deliver.** Delivery shall be made within the agreed delivery period at a time chosen by ADM. Where delivery is spread over several months, it shall – in the absence of any other arrangements – take place monthly in approximately equal installments. ADM shall be obliged to supply only within the scope of its existing capacities and taking account of prior orders placed by other customers. ADM shall be entitled to make partial deliveries. In the event of several agreements being processed at the same time, with the same subject-matter and delivery period, ADM shall exercise its equitable discretion in determining the sequence of performance. ADM shall be entitled at all times to supply Goods equivalent in quality to its own but always subject to the provision that the Goods shall in every respect be at least equal or superior in quality. In the case of delivery “ex production”, the Purchaser shall accept delivery in accordance with the production requirements of the ADM supplying plant. Delivery can always be made from other locations than those specified in the sales contract, subject to mutual netting of any differences in freight.

**2.3 Delivery to third parties.** Delivery to third parties, in particular to forwarding agents, shall only be made if a requisition is accompanied by clearance certificates duly issued in the name of the ADM supplying plant, the requisition and clearance certificate correspond exactly in terms of quantities and the requisition sets out the respective sales contract number and lading reference.

**2.4 Delivery period.** In determining the delivery period, the expression “immediate” shall mean within three (3) working days (in the case of ship cargo five (5) working days) and the expression “prompt” shall mean within ten (10) working days. The day on which the sales contract was concluded shall not be included in this calculation. For the purpose of these Conditions, “working days” shall mean Monday to Friday, excluding statutory and customary public holidays at the place of loading or shipment.

**2.5 Tendering.** ADM shall be entitled to tender the Goods at any time within the delivery period at its discretion. However, the tender or delivery notice shall be given at least five (5) working days before the planned shipment date.

**2.6 Shipping order.** The Purchaser must issue a shipping order at least five (5) working days before the designated delivery date. If the Purchaser fails to issue executable shipping instructions within five (5) working days (in the case of immediate delivery, within two (2) working days) following tender ADM shall be entitled, after the expiry of a grace period set out in clause 2.7, (i) to demand specific performance and claim damages for the delay in performance, (ii) to rescind the sales contract or the part not yet performed and claim damages at any time or (iii) to claim damages in lieu of performance or, alternatively, payment against presentation of its own delivery note or a delivery note issued by the warehouse manager. If the Purchaser fails to issue an executable shipping order by the date specified, the Goods intended for the Purchaser shall be stored at the Purchaser’s expense and risk on ADM’s premises or on the premises of a third party; in addition, ADM shall be entitled to postpone delivery by the same number of working days as the Purchaser was in arrears in addition to a reasonable period for making appropriate arrangements. ADM shall also be entitled to assert the rights set out above in relation to orders deliverable on call, if the Purchaser fails to issue an executable shipping order by the end of the delivery period.

**2.7 Period of grace.** The periods of grace pre-

scribed under clause 2.6 shall be (i) at least two (2) working days in the case of sales with immediate delivery, (ii) at least three (3) working days for sales with a delivery period longer than “immediate” up to and including “prompt” delivery, (iii) at least three (3) working days for meal sales with a longer delivery period than “prompt” and at least five (5) working days for all other sales with a longer delivery period than “prompt”.

**2.8 Assessment of damages.** If ADM claims damages in lieu of performance under clause 2.6, it may, where applicable under local law, effect assessment of such damage, inter alia, by means of sale or price determination performed by a third party (e.g. broker). The reference date for price determination shall be the first (1) working day following the expiry of the period of grace.

**2.9 Delays in delivery.** Except as otherwise agreed between the parties dates and times of delivery are given as an indication only. However, ADM shall be released from adherence to contractual delivery dates and periods to the extent that and as long as circumstances occur, either in the home country or abroad, which substantially impede performance (“**substantial impediment to performance**”). All difficulties, irrespective of their nature, the sphere and segment of the supply chain in which they occur, such as force majeure and acts of God (e.g. floods and low water, ice, delay in and/or loss of harvest, etc.), wars, military operations and hostilities, any reductions or disruptions in energy supplies, incl. fuel supply, export and import restrictions, problems in procuring commodities, raw materials, ingredients, or any products, disruptions of operations (e.g. breakdown of machinery, fire, etc.), any circumstances which would hinder or delay the procurement of any goods, strikes or any similar actions, states of emergency or loading and transportation difficulties are deemed to be substantial impediments to performance.

**2.10 Consequences of delays in delivery.** In the event of a substantial impediment to performance under clause 2.9, ADM is entitled to (i) rescind the sales contract with immediate effect without damages or (ii) extend the agreed delivery period by the duration of such impediment and the time required to make adjustments to production schedules as a consequence thereof by up to five (5) months (“extension period”). ADM shall be entitled but not obliged to supply Goods equivalent to those contractually agreed or to replace failed deliveries with third-party goods of equal value within the extension period. ADM shall notify the Purchaser of the duration of the extension period. ADM shall not

be liable to the Purchaser for any loss or damage directly or indirectly suffered by the Purchaser in connection with non-delivery or delay in delivery within the contractual delivery dates and/or periods within the extension period, due to the substantial impediment to performance. In case of non-delivery, after expiry of the extension period, the sales contract may be rescinded at the request of either party.

### **Section 3 – Loading and packaging**

**3.1 ADM’s right of choice.** In the absence of any provisions on the part of the Purchaser, ADM shall be entitled to choose the route and means of transport for the Goods. In doing so, ADM shall take reasonable account of the Purchaser’s interests. ADM does not guarantee that the cheapest means of transportation will be chosen in every case.

**3.2 Shipments by rail.** In the case of shipments by rail, ADM shall be entitled to effect shipment to the Purchaser’s own address after having notified the Purchaser accordingly.

**3.3 Consignments by ship.** ADM shall not be responsible if the vessel contracted for shipment is not available in the event of the shipping company having made other arrangements for the vessel.

**3.4 Loading time.** The loading of the Goods shall be performed within the working hours specified by ADM. All costs arising from delays in loading for which ADM is not responsible such as demurrage and transport costs, shall be borne by the Purchaser. In other respects the respective terms of delivery agreed from time to time shall apply.

**3.5 Purchaser’s acceptance of Goods.** If the Goods are loaded onto vehicles provided by the Purchaser, the loading is to be effected within the working hours specified by ADM in accordance with operational requirements and, if necessary, also in several shifts. If the Purchaser is unable to provide its own crew for loading operations in accordance with operational requirements, ADM shall endeavor to make professional staff available for this purpose at the Purchaser’s expense. The loading of watercraft shall be effected in accordance with local practice.

**3.6 Acceptance of Goods by third parties.** If the Goods are accepted by a third party on behalf of the Purchaser (in particular a forwarding agent or freight carrier), the bills of lading/consignment notes issued to “order” or endorsed in blank shall be handed to ADM upon request.

**3.7 Assumption of risk.** Risk while the Goods are in transit shall be borne by the Purchaser unless otherwise stipulated in the respective terms of delivery. Any liability of ADM due to inappropriate pack-aging or loading shall cease once the Purchaser or a third party has accepted the Goods without objection.

**3.8 Suitable means of transportation.** Unless otherwise specified in the respective terms of delivery, the Purchaser shall be responsible for the provision of suitable means of transport at the time of acceptance of the Goods. The means of transport shall only be deemed to be suitable if it meets all statutory requirements and any other regulation at the time of loading, throughout the transit period and during unloading. ADM is entitled to reject a means of transport deemed to be unsuitable and to effect delivery by third-party means of transport at the Purchaser’s expense.

### **Section 4 – Quality, weight, sampling**

**4.1 No warranty of properties.** The Goods delivered by ADM shall be of merchantable quality. The warranty of a specific property shall only be deemed to apply if such property has been expressly guaranteed in writing by ADM. For further details, please refer to the respective Goods specifications, if any.

**4.2 Samples.** If the Goods are sold on the basis of samples, the sample shall be representative of Goods only. No warranty is given that the Goods shall correspond with the sample.

**4.3 Permissible weight fluctuations.** ADM may fall below or exceed the agreed quantity by 5%, with 2% thereof to be charged at the sales contract price and up to a further 3% at price on day of delivery. ADM shall determine the quantity of Goods with binding effect for both parties applying methods commonly used by ADM for such purposes. Upon prior consultation with ADM, the Purchaser may, together with a qualified representative, participate in the procedure for determining the quantity of Goods.

**4.4 Rules relating to sampling.** Sampling shall only be performed at the place of shipment by an expert sampler at the Purchaser’s request and expense. The Purchaser shall notify ADM of the request for sampling in due time, at the latest when the shipping order is placed.

**4.5 Conclusiveness of sampling.** If a sample has been taken according to above-mentioned clause

4.4, it shall be conclusive in determining the quality of the Goods. In all other cases the sample taken at the ADM supplying plant before the delivery shall be conclusive.

## **Section 5 – Notice of defects**

**5.1 Duty of inspection and notification.** The recipient shall carefully inspect the Goods immediately prior to acceptance/acknowledgement of receipt thereof. In the event of a claim, but excluding the cases when the Purchaser has not respected transport and/or storage instructions given by ADM for which ADM's liability cannot be reached, ADM shall immediately be notified in writing or by facsimile with a detailed statement of reasons. The Goods in question must be retained in their transport containers on site to enable ADM to assess whether the claim is justified.

**5.2 Replacement delivery.** Should the claim be justified and raised in due form within the given period, ADM is entitled in the first instance to take back the defective Goods and replace them with Goods conforming to the sales contract, to the exclusion of any other damages, costs and fees. If ADM fails to effect replacement delivery, the parties shall agree on a decrease of the selling price. In any event ADM shall be discharged from all liability in respect of non-delivery, mis-delivery, delay, loss or damage unless suit is brought within one (1) year after delivery of the Goods or the date when the Goods should have been delivered.

**5.3 Processing and reshipment.** Before commencing processing, the Purchaser shall determine whether the delivered Goods are suitable for their intended purpose, particularly for subsequent processing purposes. Once the delivered Goods are treated or processed, mixed or combined with other materials, they shall be deemed to have been approved by the Purchaser as complying with the sales contract. Any warranty claims – in particular, claims for damages – shall be excluded thereafter. This shall also apply with respect to reshipment of the Goods from the original place of delivery.

## **Section 6 – Liability**

**6.1 Extent of liability.** In the event of any breach of duty – irrespective of whether such breach is based on a pre-contractual, contractual or non-contractual duty – ADM shall only be liable for damages and reimbursement of costs in the event of intent or gross negligence, subject to any other contractual or statutory conditions precedent to liability. ADM shall in no event be held liable for any

damage caused by vicarious agents.

**6.2 Limitation of liability.** Except in the case of intent, ADM's liability is limited to direct loss or damage which was foreseeable at the time the sales contract was concluded up to a maximum amount equivalent to the purchase price agreed with ADM. ADM's liability for loss or damage caused by delay is limited to a maximum of 5% of the purchase price agreed with ADM for the affected delivery.

**6.3 Consequential loss or damage.** Except in the case of intent, ADM's liability for indirect and consequential loss or damage in particular loss of profit, is excluded.

**6.4 Limitation of time.** All claims for damages against ADM shall lapse no later than one year after the Goods and/or Services have been delivered to the Purchaser; in the event of liability in tort, from the date of knowledge or grossly negligent lack thereof with regard to the circumstances supporting the claim and the identity of the person liable for damages. Any shorter statutory limitations periods shall take precedence.

**6.5 Set-off by ADM.** The Purchaser agrees that ADM may apply by way of set-off an amount equal to any monies or other liability owing from time to time by the Purchaser or any member of the Purchaser's group to ADM against any monies or other liability owing by ADM to the Purchaser.

## **Section 7 – Prices and terms of payment**

**7.1 Increase in prices.** ADM is entitled to increase the price retroactively to reflect additional prime costs of the Goods and/or Services such as (but not limited to): a) tax, charge, duty, excise, fee, tariff, levy, customs duty or customs classification or increase therein imposed upon the Goods and/or Services; and/or b) increase in the existing freight rates related to any kind of transportation; and/or c) higher costs of commodities, raw materials or ingredients, as well as higher fuel and/or energy costs, insurance premiums as well as hardship allowances (e.g. in the event of flood/low water or ice). This clause does not apply to sales contracts where applicable law does not permit it.

**7.2 Carriage paid.** Unless expressly agreed otherwise, e.g. in the respective terms of delivery, the Purchaser shall bear any additional freight costs as well as specific packaging costs that go beyond standard packaging, incidental charges, public levies and customs duties.

**7.3 Taxes.** All agreed prices shall be exclusive of any tax, i.e. the current energy and value added tax as well as any other applicable taxes and duties shall be paid by the Purchaser in addition to the agreed prices.

**7.4 No discount.** In the case of deliveries of the Goods subject to tax, levies or similar charges, the respective amount of tax or levy shall be paid net, i.e. without a discount being granted.

**7.5 New obligations.** Should any further reaching or new obligation of any kind, affecting the terms of the sales contract, be imposed on ADM by official regulations after conclusion of the individual sales contract, the consequences and additional costs form part of the sales contract and shall be assumed by the Purchaser vis-à-vis ADM.

**7.6 Bills of exchange and cheques.** Bills of exchange and cheques shall only be accepted on account of performance, and bills of exchange only if payment by bill of exchange is agreed in the sales contract. If payment by bill of exchange has been agreed, the drafts sent by ADM to the Purchaser must be returned to ADM free of any charges within seven days of the date of dispatch, endorsed with acceptance and bank domicile. Discount and bill charges as well as default interest shall always be payable immediately.

**7.7 Due date.** The Purchaser shall be deemed to be in default without a reminder if it fails to effect payment when due unless it proves promptly that it is not responsible for the delay in payment.

**7.8 Default interest.** The Purchaser shall automatically be liable, without need for formal notice, for payment of default interests whose rate is set forth in the article 73 of Swiss Code of Obligations, unless the applicable national law provides for a statutory default interest rate and/or a recovery penalty which shall then apply. The interest shall be calculated from the day after the due date until full payment is made. ADM may assert claims for further loss or damage. ADM is also entitled to claim damages.

**7.9 Set-off, right of retention.** Retention of payment or set-off by the Purchaser shall be permissible only if the counterclaims are uncontested or have been finally adjudicated by a court of law.

**7.10 No authority to collect.** ADM's representatives or employees are not permitted to collect any payments without specific written authorization.

## **Section 8 – Customs, foreign trade and excise duty**

**8.1 Excise duty.** The following shall apply to Goods which are subject to excise duty (where such Goods are intended to be used as motor- or heating fuel): in advance of any delivery of the Goods, the Purchaser shall inform ADM about the intended use of the Goods to be delivered, if ADM has provided the Purchaser with an order template, on such template or, if ADM has not provided the Purchaser with such template, otherwise in writing, by fax or electronically. In addition, the Purchaser shall provide ADM with all information and documents required by ADM to observe the laws and regulations relating to excise duty. In the case of delivery of Goods subject to excise duty the Purchaser shall observe the applicable laws and regulations. In the case of deliveries of Goods under duty suspension, the Purchaser shall in particular be required promptly following delivery to register such Goods into its tax warehouse. The Purchaser shall, upon first request of ADM, indemnify and hold harmless ADM from and against any claim for excise duty or other payments arising from the Purchaser's violation of the obligations under this clause 8.1.

**8.2 Customs and export regulations.** To the extent that ADM imports Goods into the customs territory of the European Community for the Purchaser under this sales contract, the Purchaser shall observe the relevant laws and regulations relating to customs. In addition, the Purchaser shall provide ADM with all information and documents required for ADM to observe the applicable laws and regulations. In the event that the Purchaser intends to use the Goods as heating fuel for technical or industrial purposes, and to claim preferential treatment under customs law the Purchaser shall, without prejudice to its other obligations under this clause 8.2, inform ADM of such fact in writing and in due time. In such cases, the Purchaser hereby declares to be the holder of all customs authorizations required for release of the delivered Goods into free circulation for specific use. Where the Purchaser himself or a third party designated by him exports the Goods from the customs territory of the European Community, the Purchaser shall also observe all applicable export regulations, in particular those of the European Community, the individual member states of the European Union and the United States. The Purchaser shall, upon first request of ADM, indemnify and hold harmless ADM from and against any claim for customs duties or other payments arising from the Purchaser's violation of the obligations under this clause 8.2.

**8.3 Embargos.** ADM's performance of this

sales contract shall be subject to the condition that there are no national or international rules relating to foreign trade legislation and no embargoes and/or other sanctions to the contrary.

## **Section 9 – Rights of ADM**

**9.1 Refusal of performance.** ADM may refuse or cancel performance under the sales contract, if

- (i) the Purchaser falls into arrears with the acceptance of a delivery or payment under this sales contract or any other sales contract concluded with an ADM company,
- (ii) doubts arise as to the Purchaser's solvency and willingness to pay,
- (iii) the Purchaser's company is liquidated or transferred to a competitor of ADM or
- (iv) the credit limit of ADM's credit insurance for the delivery of the Goods is exceeded.

In such cases, ADM shall also be entitled to demand advance payment from the Purchaser subject to the deadline set out in clause 2.7 or the provision of a bank guarantee agreed with ADM. Upon expiration of the deadline, ADM may rescind the sales contract or the part thereof not yet performed without any liability for damages. In the case of (i) above the joint and several claims of all ADM companies against the Purchaser shall become due immediately, even if bills of exchange or cheques had been provided to this end or payment has been deferred.

**9.2 Advance Payment.** ADM is entitled at any time to demand payment in advance against delivery notice of Goods cleared for loading.

**9.3 Assignment.** The contracting ADM company is entitled to assign, without the consent of or notice to the Purchaser, (a) any and all contractual rights and obligations to another company in the Archer Daniels Midland Group, including, but not limited to, the ADM companies listed in clause 1.1 and (b) any and all rights to receive payment under any sales contract with Purchaser to another company in the Archer Daniels Midland Group, including but not limited to, the ADM companies listed in clause 1.1, or to a third party.

## **Section 10 – Retention of title**

**10.1 Retention of title.** All Goods delivered (“Goods under retention of title”) shall remain the property of ADM until all claims including any

future or conditional claims arising under sales contracts concluded concurrently or at a later date have been met.

### **10.2 Ownership of processed Goods.**

Retention of title under clause 10.1 shall continue to apply where the Goods under retention of title undergo treatment or processing. In the event that the Goods under retention of title are processed, combined and mixed with other materials by the Purchaser, ADM shall acquire co-ownership of the new product in the ratio of the invoice value of the Goods under retention of title to that of the other materials used. If ADM's ownership ceases as a result of combining or mixing, the Purchaser hereby assigns title to the new products or materials to the extent of the invoice value of the Goods under retention of title and shall store these on ADM's behalf free of charge. The Goods subsequently co-owned by ADM shall be deemed to be Goods under retention of title pursuant to clause 10.1 above.

### **10.3 Re-sale by Purchaser.**

The Purchaser may only re-sell, process or mix the Goods under retention of title with other materials in the ordinary course of its business and if it is not in default. Pledges and transfer of ownership as security shall not be permitted. If payment of the purchase price by the customer is deferred the Purchaser shall retain title to the Goods under retention of title vis-à-vis its customer on the same terms and conditions applied by ADM to retain title of the Goods. The Purchaser is not, however, obliged to also retain title in respect of claims against its customer arising in the future.

### **10.4 Assignment and collection of claims.**

In the event of re-sale of the Goods under retention of title, the Purchaser hereby assigns to ADM as security claims for sums due to the Purchaser from the re-sale where ADM co-owns the Goods under retention of title in proportion to ADM's co-ownership rights. The same applies to any other claims superseding the Goods under retention of title or otherwise arising with respect to these, such as insurance claims or tort claims in the event of loss or destruction. ADM hereby revocably authorizes the Purchaser to collect the claims assigned to ADM in its own name and for the account of ADM. ADM may only revoke this collection authority in the event of realization.

### **10.5 Duty of notification.**

In the event of seizure of the Goods under retention of title by any third party, in particular by attachment, the Purchaser shall immediately disclose to such third party ADM's ownership of the Goods and notify ADM thereof accordingly to enable ADM to assert

its ownership rights. To the extent that the third party is unable to reimburse ADM for the legal costs incurred in this connection, the Purchaser shall be liable for payment of such costs.

**10.6 Event of realization.** Should ADM rescind the sales contract due to a breach by the Purchaser of any terms of the sales contract, in particular in the event of delayed payments ADM has the right to demand the return of Goods under retention of title.

**10.7 Release.** If requested, ADM shall release the Goods under retention of title and any items or claims superseding them at its discretion to the extent that their value exceeds the amount of secured claims by more than 50%.

## **Section 11 – Final provisions**

**11.1 Place of performance.** The place of performance for delivery and payment shall be the seat of the contracting ADM company.

**11.2 Intellectual property.** Any intellectual property rights arising from or connected to the Goods and/or Services belong exclusively to ADM. The sale of the Goods and/or Services does not implicitly or explicitly imply the license of the intellectual property rights relating to the compositions and/or applications of the Goods and/or Services.

**11.3 Sanctions and anti-boycott.** Each party respectively represents and warrants to the other to best of its knowledge that neither it nor any person or entity that owns or controls it or that it owns and controls is a designated target of any trade, and/or economic and/or financial sanction or sanctions (including without limitation any relevant law, regulation, order, ordinance, resolution, decree, restrictive measure or other requirement having the force of law), adopted by the U.S., E.U. (or its respective Member States), U.N., Switzerland, or the country of origin of the Goods (collectively “Sanctions”). Each party respectively agrees and undertakes to the other that it and its agents, contractors, and representatives will fully comply with the requirements of all applicable Sanctions in the performance of the sales contract.

ADM agrees and undertakes to Purchaser that the Goods will not directly or indirectly originate from, be provided by or be transported on a vessel or by a carrier owned, flagged, chartered, managed or controlled, directly or indirectly, by any country, person, entity, or body, or for the purpose of any commercial activity, that would cause Purchaser or a person subject to U.S. jurisdiction to be in

violation of applicable Sanctions and/or export or re-export controls. If Purchaser requires, ADM shall provide Purchaser with appropriate documentation for the purposes of verifying the origin of the Goods. Purchaser has the right to reject any restricted originating country, vessel, transit route, person or entity that would cause the performance of the sales contract to violate any applicable Sanctions or which would cause Purchaser or its agents, contractors or representatives or a person subject to U.S. jurisdiction to be in violation of or be penalized by any applicable Sanctions.

Purchaser agrees and undertakes to ADM that the Goods will not be:

- (i) resold to;
- (ii) disposed of by; or
- (iii) transported on a vessel, or by a carrier, owned, flagged, chartered, managed or controlled by, directly or indirectly to,

any country, person or entity, or for the purpose of any commercial activity, which would cause ADM or a person subject to U.S. jurisdiction to be in violation of applicable Sanctions and/or export or re-export controls. If ADM requires, Purchaser shall provide ADM with appropriate documentation for the purposes of verifying the final destination of the Goods. ADM has the right to reject any restricted destination, vessel, transit route, person or entity that would cause the performance of the sales contract to violate any applicable Sanctions or which would cause ADM or its agents, contractors, or representatives or a person subject to U.S. jurisdiction to be in violation of or be penalized by any applicable Sanctions.

Purchaser further represents and warrants that it will not make payment for the Goods through or via such country, bank, or other entity or body or facility, as would cause ADM or a person subject to U.S. jurisdiction, directly or indirectly, to be in violation of or be penalized by any applicable Sanctions. Should payment for the Goods be impeded, blocked, delayed, or prevented, for longer than three business days, by reason of Sanctions or their alleged applicability, Purchaser shall use its best endeavours to make payment by alternative lawful means that do not, directly or indirectly, violate any Sanctions, (insofar as they apply or are applied or implemented by banks, governments, or other lawfully-constituted authority whatsoever), unless any such payment problems are a result of ADM’s violation of the Sanctions.

The parties will not cooperate with, agree to, or comply with any terms or requests, including

documentary requests, which violate or are otherwise prohibited or penalized under the Anti-Boycott laws or regulations of the U.S.

Without prejudice to the foregoing, the parties agree to cooperate with each other's reasonable requests for information and/or documentary evidence to support and/or verify compliance with this clause.

**11.4 Anti-corruption.** Each party respectively agrees and undertakes to the other that, in connection with the sales contract, it will fully comply with all applicable laws, regulations, orders, ordinances, resolutions, decrees, or restrictive measures and/or other requirements having the force of law of the U.S., E.U. (or its respective Member States), U.N., Switzerland, or the country of origin of the Goods relating to anti-bribery and anti-money laundering ("Applicable Legislation"). In particular, each party respectively represents, warrants and undertakes to the other that it shall not, directly or indirectly,

a. pay, offer, give or promise to pay or authorize the payment of, any monies or other things of value to, or confer a financial advantage on:

- i. a government official or an officer or employee of a government or any department, agency or instrumentality of any government;
- ii. an officer or employee of a public international organisation;
- iii. any person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality of such government or of any public international organisation;
- iv. any political party or official thereof, or any candidate for political office;
- v. any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities; or

b. engage in other acts or transactions:

in each case if this is in violation of or inconsistent with the Applicable Legislation, including, without limitation, the U.S. Foreign Corrupt Practices Act and applicable country legislation implementing (in whole or in part) the OECD convention on combating bribery of foreign public officials in international business transactions.

**11.5 Personal data.** To the extent Purchaser is processing ADM personal data, Purchaser shall (i) comply with all applicable data privacy laws, (ii) not process or disclose ADM personal data for any purpose other than as necessary to provide or assist in the provision of the services, or as required by applicable law, (iii) use reasonable technical and

organizational measures to protect the security, integrity and confidentiality of ADM personal data. Purchaser shall further impose such obligations on employees and any commissioned third parties. ADM, in this respect, shall not be held liable for any failure of the Purchaser to comply with relevant data protection regulations and/or requirements.

The Purchaser shall ensure that any data subjects affected by ADM's processing activities have been adequately informed in such a way that any applicable information requirements have been satisfied for ADM; where applicable, this shall mean article 14(5)(a) of the GDPR.

If and to the extent that ADM processes any personal data provided by the Purchaser, including as a Controller according to article 4 (7) of the GDPR, the Purchaser shall ensure that this personal data was collected and shared with ADM in compliance with all relevant data protection regulations and requirements, and there is no reason to believe that the processing by ADM, for foreseeable extents and purposes, is prohibited or invalid.

If Purchaser is obligated to collect, process, or store personal data on behalf of ADM pursuant to these Conditions, the parties shall conclude a commissioned data processing agreement

**11.6 Applicable law.** Unless otherwise agreed, the sales contract shall be governed by Swiss substantive law, to the exclusion of conflict of law rules. The applicability of the UN Convention on the International Sale of Goods is excluded.

**11.7 Place of jurisdiction.** Any disputes arising from or in connection with sales contracts to which the Conditions apply shall exclusively be settled in the courts having jurisdiction at the contracting ADM company's domicile. ADM may also bring proceedings against the Purchaser before the competent court having jurisdiction at the Purchaser's domicile.

**11.8 Severability.** If at any time any provision of the Conditions is or becomes invalid this shall not affect the validity or enforceability of the remaining provisions. In this case, the provision in question shall be replaced with a provision with a similar economic effect to that intended by the parties.

**11.9 Written form.** No variation of the Conditions including this clause regarding written form shall be effective unless made in writing.



## PART 2 – SPECIAL TERMS AND CONDITIONS

The following special terms and conditions shall apply to the sale and delivery of particular categories of Goods and/or Services. In the event of a conflict between the General Terms and Conditions set out in Part 1 and any Special Terms and Conditions set out below then the latter shall prevail.

### Section 1 – Meal

The following special terms shall apply to meal sales:

**1.1 Quality settlement.** The moisture and natural foreign material levels shall not form an independent basis of claim. The following exception shall apply to soya meal: The basis for quality settlement in respect of moisture shall be 14% in the period from 16 September to 15 April and 13% in the period from 16 April to 15 September. Any special terms on moisture referred to in the ADM sales confirmation shall prevail. In the event that these values are exceeded by more than 0.5% or the crude fibre level exceeds the agreed value the sales contract price shall be reduced by the amount of percent that the agreed values are exceeded.

The price is based on the levels of protein and fat stipulated in the sales contract. The settlement basis for compensation of a possible lower content shall be the total of both values. Settlement shall be made in a ratio of 1:1.

**1.2. Claims procedure.** Claims based on the substance of content of the Goods can only be made on the basis of samples taken in accordance with clause 4 of part 1. If the Purchaser requires the analysis of such a sample he shall send this to a laboratory (sworn Hamburg or Bremen commercial chemist or the Anstalt des Verbandes Deutscher Landwirtschaftlicher Untersuchungs- und Forschungsanstalten or another laboratory agreed between the parties) within 5 working days of receipt of the sample. In the event that the results of the analysis differ from the agreed value ADM has the right to arrange a control analysis by another of the laboratories listed above. If the difference between the two results does not exceed 1% the mean of the two results shall form the basis for settlement. If the results of the two analyses vary significantly both parties have the right within 8 working days after receipt of the second analysis to demand a third analysis. The laboratory shall be determined by ADM. In such a case the mean of the two results closest to each other shall

form the basis for a possible settlement. If a settlement is to be made the costs of all analyses shall be borne by ADM otherwise by the Purchaser.

In the case of claims other than those dealt with under clause 1.2 the Purchaser shall notify ADM by fax immediately after receipt of the Goods and confirm in writing giving a detailed statement of reasons. If samples have been taken at the place of dispatch these shall be decisive for the assessment of the Goods.

The rejected Goods must be stored separately and must not be processed to enable ADM to assess whether the claim is justified.

## Section 2 – Sweeteners & Starches

The following special terms shall apply to sweeteners and starches to the extent that they are consistent with any special terms set out in the sales contract:

**2.1. Shipping Order.** The Purchaser shall deliver to ADM an executable shipping order during working hours and in advance as per the agreed delivery lead-time stated in the ADM sales contract or as confirmed by ADM in the purchase order confirmation. No order shall be deemed to be accepted by ADM until written acknowledgement thereof is issued by ADM or (if earlier) ADM delivers Goods to the Purchaser.

**2.2. Delivery.** The Purchaser shall unload the Goods within 2 hours upon arrival, if this time is exceeded, ADM has the right to charge the related extra costs to the Purchaser.

**2.3. Permissible weight fluctuations.** For Goods in bulk, weight ascertained at time of dispatch will be used for invoicing unless the parties agreed otherwise. In the event of recurring weight differences above 0.5% proven by the Purchaser based on weighbridge tickets from a certified weighbridge, parties will cooperate in investigating the cause of such discrepancy. Subsequently, the Purchaser's or ADM's weighbridge may be adjusted and credit for the weight differences issued to the Purchaser.

**2.4. Quality claims process.** The Purchaser shall inspect the Goods at the place of delivery and notify ADM of any apparent defects of the Goods within 2 days after the delivery, and of any hidden defects immediately after their disclosure but not later than 3 months after the delivery. If the Purchaser fails to notify ADM of defects within the prescribed times, the Goods will be deemed to have been accepted by the Purchaser and to be free of any defects and non-conformities and all related claims shall be precluded. It is acknowledged and agreed that ADM shall not be liable for any defects or non-conformities of the Goods which have been altered or processed by the Purchaser or any other third parties after completion of the delivery.

**2.5. Resale of the Goods.** If the Purchaser re-sells the Goods, it undertakes not to vary, modify, amend, add to it or in any way alter, reshape or repack any of the Goods for further re-sale to its customers unless a prior written consent was given by ADM.

The Purchaser is solely responsible for the re-sale of the Goods and ADM shall have no liability, to the extent governed by these Conditions, for any costs, losses or damages resulting from or related to the Purchaser's resale of the Goods.

The Purchaser shall not represent itself as an agent of ADM for any purpose, pledge ADM's credit, give any condition or warranty on ADM's behalf, make any representation on ADM's behalf or commit ADM to any sales contracts.

The Purchaser shall ensure appropriate traceability of the resold Goods and in case of any quality claims and/or recalls the Purchaser shall provide ADM, upon its request, with details of volumes, batches and names of the resold Goods, the Purchaser's customers names and addresses, the dates of deliveries by the Purchaser to its customers and destinations of the Goods, as well as provide reasonable cooperation to ADM in responding to such quality claims and/or recalls.

The Purchaser shall not, without ADM's prior written consent, make any promises or guarantees about the Goods beyond those contained in the promotional material supplied by ADM.

The Purchaser may only resell the Goods accompanied by the original quality certificates of ADM and any other documents related to the qualitative, technical and safety appurtenances of the Goods issued by ADM.

### Section 3 – Rapeseed meal

The following terms and conditions shall apply to rape meal sales in the United Kingdom:

**3.1. Goods:** Extracted Rapeseed meal of EU manufacture in bulk produced from Conventional Rapeseed - 00 -, which is not subject to the labelling requirements specified in current EU regulations.

**3.2. Quality:** Min 34.5% Profat combined, Moisture as per Fediol moisture clause, as determined at loading by ADM Erith Laboratory.

#### 3.3. Ex-Mill

**3.3.1 Quantity:** 1% more or less, or 5 tonnes whichever is the greater; in equal weekly quantities or as otherwise mutually agreed; Erith weights final.

<b>3.3.2 Loading:</b> Period 1	0600 – 0900
Period 2	0900 – 1300
Period 3	1300 – 1700
Period 4	1700 – 2100

**WAITING TIME:** Where vehicles have booked in during the allocated collection period waiting time is payable by ADM at £25/hour for every waiting hour after two hours up to 2100. Waiting time will recommence at 0600 the following day. £25 per load will be payable for delayed loads having to stay overnight.

**3.3.3 Notice.** ADM reserve the right to close the program for ex-mill collections without prior notice.

**3.3.4 Terms.** All terms and conditions, including the arbitration and appeal clause, contained in the GAFTA 4, subject to the following amendments:

#### **3.3.4.1 Amendment to clause 7 Period of Delivery:**

Each delivery period (normally one month) shall be considered a separate sales contract. Purchaser shall collect the Goods ex works within the period specified in the sales contract. Should Purchaser, through no fault of ADM, fail to collect the contract quantity either in whole or part by the end of the contract period, Purchaser shall pay the purchase price in accordance with the payment terms as if collection had been made. In addition ADM has the option, after notification in writing, to either deliver the quantity due for collection either in whole or in part to a third party store/warehouse at Purchaser's risk with all charges for Purchaser's account or to charge the Purchaser a mutually agreed amount to delay collection to a specified date Should ADM, through no fault of Purchaser, fail to

make Goods available for collection within the specified period of sales contract, ADM shall make the Purchaser an allowance of £0.50 per tonne for any portion of the contract tonnage not collected. If ADM fails to make the Goods available after the 14th day following the delivery period, an additional allowance of £1 per tonne will be made for the quantity not made available and subsequently an allowance of £1 per tonne for every 14 days further delay until delivery is completed. ADM may at their option tender in satisfaction of this sales contract the Goods of equivalent quality of another manufacture.

**3.3.4.2 Amendment to clause 8 Part Deliveries:** - ADM may, at their option, not make the Goods available for delivery if payment for earlier deliveries is overdue.

#### 3.4. Delivered

**3.4.1 Quantity.** 1% more or less, or 5 tonnes whichever is the greater; in equal weekly quantities or as otherwise mutually agreed; Erith weights final.

**3.4.2 Notices.** Purchaser to give a minimum of 5 working days' notice before delivery date.

**3.4.3 Delivery Times.** Whilst every effort will be made, ADM offer no guarantee to deliver on specified days or times and accept no responsibility for any costs that may be incurred by the Purchaser as a result of deliveries failing to arrive on requested days or times.

**3.4.4 Demurrage.** All waiting time at customer works for Purchaser's account.

**3.4.5 Terms.** All terms and conditions, including the arbitration and appeal clause, contained in the GAFTA 4, subject to the following amendments:

#### **3.4.5.1 Replacement of clause 7 Period of Delivery**

Each delivery period (normally one month) shall be considered a separate sales contract. Purchaser shall collect the Goods delivered at the contracted destination within the period specified in the sales contract. Should Purchaser, through no fault of ADM, fail to take delivery of the contract quantity either in whole or part by the end of the contract period, Purchaser shall pay the purchase price in accordance with the payment clause as if collection had been made. ADM has the option, after notification in writing, to deliver the quantity due for collection either in whole or in part to a third party store/warehouse at Purchaser's risk with all charges for Purchaser's account. Should ADM, through no fault of Purchaser, fail to deliver the

Goods within the specified period of contract, ADM shall make the Purchaser an allowance of £0.50 per tonne for any portion of the contract tonnage not delivered. If ADM fails to make the Goods available after the 14th day following the delivery period an additional allowance of £1 per tonne will be made for the quantity not made available and subsequently an allowance of £1 per tonne for every 14 days further delay until delivery is completed. ADM may at their option tender in satisfaction of this sales contract the Goods of equivalent quality of another manufacture.

**3.4.5.2 Addendum to clause 8 Part Deliveries.** ADM may, at their option, not make the Goods available for delivery if payment for earlier deliveries is overdue.

### **3.5 FOB**

**3.5.1. Quantity.** 5% more or less at Purchaser's option at sales contract price or as otherwise mutually agreed.

**3.5.2 Delivery.** ADM shall be entitled to receive at least 10 consecutive days pre-advice notifying an intention to put a named vessel or TBN vessel with the specific dates, unless otherwise mutually agreed.

**3.5.3 Payment.** 100% Cash on first presentation of documents.

**3.5.4 Extension.** No extension unless agreed by ADM.

**3.5.5 Terms.** All other terms and conditions, including the arbitration and appeal clause, contained in the GAFTA 119.

### **3.6 CIFFO**

**3.6.1 Quantity.** 10% more or less at ADM's option at sales contract price.

**3.6.2 Payment.** 100% cash on first presentation of documents.

#### **3.6.3 Terms:**

**3.6.3.1 For Shipment Contracts.** All other terms and conditions, including the arbitration and appeal clause, contained in GAFTA 100

**3.6.3.2 For Arrival Contracts.** All other terms and conditions, including the arbitration and appeal clause, contained in the GAFTA 95.

**3.6.3.3 For Declared Ports.** One safe berth – one safe port suitable vessels of similar size and draft on expected dates.

## Section 4 – Seed for sowing

The following terms and conditions shall apply to seed sales in the United Kingdom.

**4.1. Goods.** Seed which is not subject to the labelling requirements specified in current EU regulations.

**4.2. Quality.** Seed is guaranteed to comply at the time of delivery with the UK Seed Regulations currently in force. All information whether contained in ADM catalogue or given by ADM's staff relation to varieties, varietal characteristics or periods of maturity or fitness for any particular purpose or otherwise relating to the performance of seeds, is given for general guidance only as variation in local or climatic conditions can render such information inaccurate. Purchasers are therefore advised that any such information given to them does not constitute a representation as to these matters and should not be relied on as such. Purchasers should satisfy themselves that any such seeds which they order are of a variety and/or mixture and performance satisfactory for their requirements and order such seeds at their own risk.

Unless otherwise agreed between the parties, any advice given by ADM or its staff to the Purchaser shall not form part of the sales contract. Purchasers are advised that ADM's staff have no authority to give more than general guidance as described above and ADM disclaims liability for any advice given or opinion expressed by them. Such advice is followed, or such opinion acted upon, entirely at the Purchaser's own risk.

**4.3. Availability.** Seeds are growing organisms and their growth is subject to pests, disease and climatic conditions. All sales of UK grown seeds are therefore subject to harvest and ADM reserves the right in the event of market shortages to apportion such supplies as become available among its customers at its sole discretion. Where seeds sold are imported, their sale is subject to supplies being made available to ADM by its normal supplier with whom the sales contract for their supply has been placed. In the event of failure of such supplies from abroad, and the seeds not being replaceable from other sources at a price no greater than that charged in the present sales contract, this sale agreement will be deemed to be cancelled without any liability to either party providing notice of such failure is given to the Purchaser at the earliest opportunity.

**4.4. Business Day / Non-Business Days.** A business day is the period between 0900 hours and 1600 hours inclusive on any day other than a non-business day. Saturdays, Sundays and officially recognized national

holidays applicable throughout the United Kingdom and any days which the Agricultural Industries Confederation Ltd may declare as non-business days for specific purposes shall be deemed non-business days for the purpose of passing of notices and claims.

**4.5. Delivery.** Each delivery or consignment shall stand as a separate sales contract. Delivery is at ADM's option. Where the sales contract specifies a particular delivery period, the Purchaser will accept delivery within that period.

**4.6. Retail Substitution.** In accordance with the usual practice of the trade, ADM reserves the right, in the event that the variety and/or mixture ordered is not available, to substitute at its option, a suitable alternative variety and/or mixture. If the substituted variety and/or mixture is not acceptable to the Purchaser, he must return it, unopened, to ADM within 14 consecutive days of receipt, after this any price paid and transport costs will be refunded in full. This sales contract will then be deemed to be cancelled without any liability to either party.

**4.7. Return of Seed.** The return of seed purchased under this sales contract on credit, where such goods are found to be surplus to the requirements of the Purchaser, is at the complete discretion of ADM and ADM's prior agreement must be sought. Where an agreement for the return of seed is obtained a handling charge may be applied which will be made known to the Purchaser at the time agreement is given.

**4.8. Claims.** Claims based upon those defects of quantity, quality or condition which should be apparent upon reasonable examination by the Purchaser shall be advised immediately and confirmed by fax, e-mail or other electronic means or by letter sent by first class post, within two business days of arrival of the goods at their ultimate destination within the UK. In the event of a claim by the Purchaser, ADM reserves the right to inspect the goods prior to any further action being taken.

**4.9. Complaints.** No complaint under the terms of the sales contract can be considered unless clear proof can be given that the seed grown and alleged to have performed unsatisfactorily was in fact the seed supplied and that it was sown on suitable prepared ground, treated carefully and correctly throughout and subject only to such conditions as were likely to produce a favorable crop.

**4.10. Farm Saved Seed.** The Purchaser shall ensure they comply promptly and fully with all legal obligations in relation to Farm Saved Seed, including the obligation to provide all relevant information upon request by or on behalf of the holder of relevant plant breeders' rights. These legal obligations are set out in various places, including Council Regulation (EC) No.2100/94; Commission Regulation (EC) No.1768/95; the UK Plant Varieties Act 1997 and the regulation and implementing rules granted under the Act, together with any subsequent amendments relating to all of the aforementioned.

**4.11. Seed Treatment.** (a) Where at the Purchasers request any treatment whether chemical or otherwise is applied to the seed, ADM's liability shall be limited to such treatment being carried out in the correct manner and/or in accordance with the instructions given by the manufacturer of the chemical in question. ADM accepts no responsibility whatsoever for the effectiveness of such treatment or any damage direct or consequential which may result therefrom.

(b) Where the seeds have been treated with a liquid or powder to control pests or diseases, or have been fumigated or pelleted, the purity and germination percentages are based on tests made before the treatment.

**4.12. Limitation of Liability.** ADM warrants that the seed supplied shall be of the species and type specified in the sales contract. ADM disclaims any and all other warranties, whether express or implied, including without limitation the warranties of merchantability, fitness for a particular purpose, and non-infringement.

In the event of any seeds sold not complying with the express terms of the sales contract, or any of the correct species and type proving defective in varietal purity, ADM will at its option replace the defective seeds free of charge to the Purchaser or will refund all payments made by the Purchaser in respect of the defective seeds.

ADM shall not be liable for any loss or damage arising from the use of any seed supplied and for any consequential loss or damage arising out of such use or any failure in the performance of or any defect in any seeds supplied and for other loss or damage including any total or partial failure of the resultant crop since such failure can depend on many natural and other factors beyond ADM's control.

In accordance with the established custom of the seed trade, any express or implied conditions, statement or warranty, statutory or otherwise, not stated in these conditions are expressly excluded. The price of any

seeds sold or offered for sale is based upon the foregoing limitations of ADM's liability. The price of such seeds would be much greater if a more extensive liability were required to be undertaken. In accepting the seed upon these conditions, the Purchaser acknowledges that the limitation of ADM's liability is fair and reasonable.

**4.13. Latent Defect.** Disease of plants can be transmitted by the wind, insects, animals or human agencies and may also be seed borne or soil borne. ADM believes the seed hereby sold to be free from latent defect, but it is not a condition of sale nor does ADM warrant that any seed sold shall be free from such defect and will not be responsible in any way for the resultant crop.

**4.14. Plant Varieties & Seeds Act 1964 & Plant Varieties Act 1997.** The price of any variety which becomes the subject of a grant of plant breeders' rights under the Plant Varieties & Seeds Act 1964, as amended and/or the Plant Varieties Act 1997, as amended, will be adjusted to include the cost of any royalty payable to the owner of the rights. If, in the case of a variety which is already the subject of plant breeders' rights, there is any change in the rate of royalty payable to the owner of the rights, the price will be adjusted accordingly

**4.15. Default.** In the event of default of fulfillment of contract by either party, the other at its discretion shall, after giving notice by fax, letter or e-mail, have the right to sell or purchase, as the case may be, against the defaulter and the defaulter shall compensate the loss, if any, on such purchase or sale on demand. If any party liable to pay be dissatisfied with the price of such sale or purchase or if the above right is not exercised and damages cannot be mutually agreed, any damages payable by the party in default shall be settled by arbitration.

In the event of default by either party entitling the other party to damages, such damages shall be based upon the actual or estimated value of the goods on the date of default, to be mutually agreed or settled by arbitration, but nothing contained or implied under this sales contract shall entitle the Purchaser/seller to recover any damages in respect of loss of profit upon any sub-contracts made by themselves or others. In the event of default, damages if any shall be computed upon the mean contract quantity. The date of default shall be the first business day following the expiry of the contract period. When an extension of collection/delivery has been claimed under the Force Majeure clause or agreed otherwise, the date of default

shall be the first business day following the expiry of the extension period.

**4.16. Arbitration.** Any dispute arising out of this sales contract shall be governed in all aspects by English Law and resolved as follows:

(a) Unless otherwise agreed, the dispute shall be referred to arbitration in accordance with the arbitration rules of the Agricultural Industries Confederation Limited, (obtainable from the registered office of the Association), and all parties shall by making this sales contract be deemed to have knowledge of such rules and to have elected to be bound thereby.

(b) If a dispute relates to unpaid debt or involves legal or technical problems of great complexity which are beyond the knowledge and competence of Arbitrators to resolve, or if a dispute of necessity involves a third party who is not subject to arbitration, either party before the time for commencing arbitration proceedings has lapsed may, in writing, request the other to consent to the arbitration proceedings being waived and for the dispute to be referred to ordinary litigation in the Courts. Should such consent be unreasonably withheld or no answer received within twenty eight days the party making the request shall be at liberty to commence Court proceedings.

**4.17. Time Limits for Claiming Arbitration:**

Arbitration shall be claimed in relation to quantity, quality, or condition within 28 consecutive days from the date of arrival of the goods at their ultimate destination in the United Kingdom and in relation to other claims (including default of fulfilment of all or part of the contract quantity) within 12 months from the last day of the contract period or 28 consecutive days from the harvest of the crop, whichever is sooner. Subject to any special conditions relative to leave being granted to institute court proceedings contained in the arbitration rules of the Agricultural Industries Confederation Limited, the making of an award shall be a condition precedent to any right of action by either party or any person claiming under either of them, so that if arbitration proceedings regarding any claims are no instituted within the time limit prescribed all courses of action relating to that claim whether by way of arbitration or in any Courts of Law are deemed time barred and waived.

**4.18. Contracts (Rights of Third Parties) Act 1999:**

Pursuant to S.1(2)(a) of the Contracts (Rights of Third Parties) Act 1999, the parties intend that no term of the contract may be enforced by a third party.

## **Section 5 – Premixes and complete feeds**

The following special conditions apply to the sales and deliveries of premixes and complete feeds for animal nutrition:

**5.1. Deliveries.** The Purchaser shall not be entitled to claim penalties or sales contract termination in case of delay.

According to the Incoterm chosen, in the event of shortages and/or damage (composition, quantity, weight or non-conformity) to the Goods upon delivery, Purchaser shall notify ADM in writing, no later than within seventy-two (72) hours following delivery, enclosing a copy of the transport contract and pictures of the shortages and/or damage. For sea shipping, upon opening of the container, the Purchaser shall in addition contact immediately ADM which will provide the details of the local average agent.

In the absence of written notifications, the Goods shall be deemed to be delivered as per the delivery note.

In any case ADM shall not be liable for any delay or suspension of delivery due to the Purchaser or in case of force majeure.

**5.2. Prices and payment terms.** All Goods shall be invoiced at the prices of the day of delivery in accordance with ADM's price list or special conditions of sale. Unless otherwise agreed, payment of the Goods shall be made within thirty (30) days from the date of the issuance of the invoice.

In case of payment of the Goods before the date of payment appearing on the invoice, no discount will be applied by ADM.

In the event of late payment, any payment by the Purchaser will be initially charged to the refund of legal and extrajudicial costs, then to the interests relief and finally to the settlement of the oldest receivables regardless of any different appropriation of payment made by the Purchaser.

**5.3. Prices.** The prices of the Goods are those agreed on order and are expressed in Euros, unless otherwise agreed between the parties. These prices are per kilogram / litre or per package and are exclusive of VAT. ADM reserves the right to refuse orders whose amount is less than 520.00 Euros (or its countervalue in local currency). For overseas sales and custom made Goods, the price will be agreed each time and ADM reserves the right not to accept orders for quantities less than 1,000 kg.

**5.4. Limitation of liability.** Clause 6.2 of Part 1 of the Conditions is replaced by the following provision: “Except in the case of intent, ADM’s liability shall be limited to direct loss or damage which was foreseeable at the time the sales contract was concluded. ADM’s liability for loss or damage caused by delay is limited to a maximum of 5% of the purchase price agreed with ADM. In any case any loss or damage caused by delay must be proven by Purchaser”.



## Section 6 – Additives and ingredients

The following special terms shall apply to additives and ingredients for animal nutrition:

**6.1. Order.** The Purchaser shall deliver to ADM an executable order during working hours and in advance as per the agreed delivery lead-time stated in the ADM sales contract or as confirmed by ADM in the purchase order confirmation.

ADM will provide the order confirmation within forty-eight (48) hours with an estimated delivery date ex-warehouse.

**6.2. Loadings.** If the Goods are loaded onto vehicles provided by the Purchaser, the loading is to be made within the working hours specified by ADM in accordance with operational requirements. If necessary, the Goods can be kept 10 days maximum on docks, but at Purchaser's costs and risks. After this delay, the Goods shall be back in stock and available for other deliveries. A new delay can be provided to the Purchaser, up to 24 days maximum.

**6.3. Sampling.** No sampling will be done for additives and ingredients deliveries.

**6.4. Delivery.** The Purchaser shall unload the Goods within 2 hours upon arrival. If this time is exceeded, ADM can charge the related extra costs to the Purchaser.

The Purchaser shall not be entitled to claim penalties or sales contract termination in case of delay.

**6.5. Permissible weight fluctuation.** For all made to orders production a fluctuation of 50 kg is possible. No additional shipment will be done for such a quantity.

**6.6. Damaged Goods on delivery.** According to the Incoterm chosen, in the event of shortages and/or damage (composition, quantity, weight or non-conformity) to the Goods upon delivery, Purchaser shall notify ADM in writing, no later than within seventy-two (72) hours following delivery, enclosing a copy of the transport contract and pictures of the shortages and/or damage. For sea shipping, upon opening of the container, the Purchaser shall in addition contact immediately ADM which will provide the details of the local average agent.

In the absence of written notifications, the Goods shall be deemed to be delivered as per the delivery note.

In any case ADM shall not be liable for any delay or suspension of delivery due to the Purchaser or in case of force majeure.

**6.7. Prices.** The prices of the Goods are those agreed on order and are expressed in Euros, unless otherwise agreed between the parties. These prices are per kilogram / litre or per package and are exclusive of VAT. ADM reserves the right to refuse orders whose amount is less than 500.00 Euros (or its countervalue in local currency). For overseas sales and custom-made Goods, the price will be agreed each time and ADM reserves the right not to accept orders for quantities less than 500,00 kg.

**6.8. Payment terms.** Unless otherwise agreed, payment of the Goods shall be made within thirty (30) days from the date of the issuance of the invoice. In the event of late payment, any payment by the Purchaser will be initially charged to the refund of legal and extrajudicial costs, then to the interests relief and finally to the settlement of the oldest receivables regardless of any different appropriation of payment made by the Purchaser.

**6.9. Limitation of liability.** Clause 6.2 of Part 1 of the Conditions is replaced by the following provision: "Except in the case of intent, ADM's liability shall be limited to direct loss or damage which was foreseeable at the time the sales contract was concluded. ADM's liability for loss or damage caused by delay is limited to a maximum of 5% of the purchase price agreed with ADM. In any case any loss or damage caused by delay must be proven by Purchaser".

## Section 7 – Zoo stimulants

The following special conditions apply to the sales and deliveries of zoo stimulants for animal nutrition:

**7.1. Prices.** Invoices are established at the rate in force on the date of taking of the Purchaser's order. Unless otherwise agreed, prices are net, excluding transportation – Incoterm EXW (Ex Works) Verdon ICC 2020, excluding taxes on the basis of the rates communicated to the Purchaser. In the event of a change in the price during the term of the sales contract, the new price shall apply on any new deliveries as from the effective date of the new price.

**7.2. Payment terms.** Unless otherwise agreed, payment of the Goods shall be made within thirty (30) days from the date of the issuance of the invoice. In case of dispute, the uncontested part of the invoice shall be paid at the original due date. In addition, if Purchaser does not comply with the above specified terms of payment, ADM may right to suspend the execution of any other current sales contract and not to accept new orders.

**7.3. Transfer of risk.** The transfer of risk of loss and damage to ADM's Goods shall occur once upon delivery of such Goods to Purchaser as per Incoterm EXW ICC 2020.

**7.4. Delivery.** The Purchaser shall not be entitled to claim penalties or sales contract termination in case of delay.

According to the Incoterm chosen, in the event of shortages and/or damage (composition, quantity, weight or non-conformity) to the Goods upon delivery, Purchaser shall notify ADM in writing, no later than within seventy-two (72) hours following delivery, enclosing a copy of the transport contract and pictures of the shortages and/or damage. For sea shipping, upon opening of the container, the Purchaser shall in addition contact immediately ADM which will provide the details of the local average agent.

In the absence of written notifications, the Goods shall be deemed to be delivered as per the delivery note.

In any case ADM shall not be liable for any delay or suspension of delivery due to the Purchaser or in case of force majeure.

**7.5. Limitation of liability.** Clause 6.2 of Part 1 of the Conditions is replaced by the following provision: "Except in the case of intent, ADM's liability shall be limited to direct loss or damage which was foreseeable at the time the sales contract was concluded. ADM's liability for loss or damage caused by delay

is limited to a maximum of 5% of the purchase price agreed with ADM. In any case any loss or damage caused by delay must be proven by Purchaser".

## Section 8 – Laboratories services

**8.1. General.** The following special conditions shall apply to all products, analyses, services, advices or audits (the “Services”).

**8.2. Services started.** Any Services started will be invoiced. For Purchasers within the European Union, ADM reserves the right to charge the following administrative fees: 15 EUR for any order whose amount is less than 50 EUR excluding VAT; 30 EUR for Purchaser outside the European Union if the amount of the order is less than 500 EUR excluding VAT.

**8.3. Delivery times for test reports.** Delivery times for test reports are only given as an estimation. The Purchaser shall not be entitled to damages or penalties in case of delay. Intermediate test reports or partial results may be issued on a provisional basis at Purchaser’s request, but only the final signed copy including results will make reference.

**8.4. Sending of test results.** Reports are sent by e-mail and/or available on a dedicated extranet site. At the request of the Purchaser, they can be sent per mail for an extra fee of 15 EUR per shipment. The reports are established by means of LIMS software and are validated by electronic signature. They are sent by email in PDF format ensuring the integrity of the document. The reports are only sent to the addressee(s) mentioned in the contractual documents or the analysis request. The authenticity of the email message is ensured by the sender's email address. ADM cannot be held responsible in case of identity theft or modification of the documents after reception.

**8.5. Prices and invoicing.** For samples submitted to the Services, rate in force on the day of the registration of the samples, excluding any special contract accepted by the parties, shall apply. ADM reserves the right to request an advance payment prior to the completion of any Services and to update the price of its Services at any time. Any Services performed or stopped during production at the request of the Purchaser will be invoiced. Any resumption of Services requested by the Purchaser will also be invoiced. Payment shall be made within thirty (30) days from the date of the issuance of the invoice.

**8.6. Nature of Services, conservation of samples.** The data provided by Purchaser to ADM for the performance of the Services shall remain Purchaser’s responsibility. Samples shall be sent at Purchaser’s risk. When a sample is to be taken, ADM undertakes to take

the necessary steps to comply with the normative requirements for analysis according to an obligation of means. In the absence of indications from the Purchaser, ADM will apply the method of analysis that it deems most appropriate in view of its investigative resources, without any liability for ADM for failure to comply with a specific method. When the workload or the means at its disposal do not allow a realization in its own premises, and after having duly informed the Purchaser which shall give its written consent, ADM shall be able to subcontract the analyses to a laboratory of its choice.

ADM shall keep samples and specimens for a variable length of time depending on their nature, regulatory requirements or ADM’s quality system. Any other retention requirements issued by Purchaser and validated by ADM shall be subject to invoicing. Samples submitted to ADM for analysis will not be returned. Upon Purchaser’s exceptional request and after agreement of ADM, the return of a sample shall be subject to an extra fee of 20 EUR excluding VAT. Samples of unstable or corruptible materials, or materials requiring specific facilities for their conservation, shall be destroyed as soon as the last analysis is carried out. ADM shall in no case be held liable for accidental destruction of the samples.

The Purchaser shall report samples with CMR (carcinogenic, mutagenic or reprotoxic), toxic, harmful, corrosive, irritating, infectious or any other hazard that may affect the health or safety of ADM collaborators or that may have a negative impact on the environment.

ADM can destroy any sample for which it suspects to show any risks for its employees, without any liability for ADM towards Purchaser. ADM hold liable the Purchaser in the event of a proven accident of an employee for which a direct link is established with the sample sent and without any information of toxicity having been previously transmitted in writing by Purchaser.

ADM shall not be liable for any subsequent decisions taken by the Purchaser on the basis of the test reports and/or Services.

**8.7. Logo’s use.** Joint use of ADM’s subsidiaries (“Upscience” and “Adgene by Upscience”) logo with the Cofrac accreditation mark is governed to the following rules:

8.7.1. Reproduction of test reports is only allowed in their integral form.

8.7.2. The accreditation mark may only be reproduced in combination with the ADM’s subsidiaries (“Upscience” and “Adgene by Upscience”) logo in the same box and in smaller proportions than the ADM’s

subsidiaries (“Upscience” and “Adgene by Upscience”) logo.

8.7.3. The accreditation mark shall always be reproduced with the following elements: accreditation number and the statement “scope available at [www.cofrac.fr](http://www.cofrac.fr)”.

8.7.4. The accreditation mark shall not be reproduced on products or Services.

8.7.5. The accreditation mark shall not be reproduced in letterheaded mail.

**8.8. Confidentiality.** The protocols and know-how used by ADM for the development and implementation of its Services, as well as any related documents, shall remain its sole property. Consequently, Purchaser shall not use them for other purposes. Purchaser shall have no industrial and intellectual property rights in such protocols, documents and know-how, which may not be communicated by Purchaser to third parties for any reason whatsoever, unless ADM has given its prior written consent.

## **Section 9 – Sales of soybean oil and soybean meal in the Republic of Serbia**

The following special terms and conditions shall apply to sales and deliveries of soybean oil and soybean meal (the “Goods”) in the Republic of Serbia.

**9.1. Entire Agreement.** For avoidance of doubt, these General Terms and Conditions of Sale and Delivery and each specific written sales contract shall represent a single and entire agreement between ADM and the Purchaser for the subject matter regulated under the written sales contract (the “Contract”).

**9.2. Quantity of goods.** Quantity of Goods shall be determined on loading of Goods to transport, according to weight measured on a weighing scale issued by ADM at the place of delivery.

**9.3. Quality of Goods.** Without prejudice to Section 4 – Quality, weight, sampling of General Terms and Conditions set out in Part 1, the quality of Goods shall conform to the Product Quality Specification listed in the Contract.

**9.4. Samples.** ADM will, at the request of the Purchaser, take three samples of the same Goods per each delivery. From these three samples of Goods, one sample shall be provided to ADM, one sample to the Purchaser and third sample will be stored by ADM for the purposes of an independent analysis in case of any disputes.

**9.5. Independent analysis.** In case of differences in laboratory results from ADM and the Purchaser regarding disputed quality of Goods delivered, test results of an independent laboratory will be final and binding for both parties. Such independent laboratory shall be defined and confirmed in written by mutual agreement of ADM and Purchaser.

**9.6. Delivery.** Without prejudice to Section 2 – Order and delivery and Section 3 – Loading and packaging of General Terms and Conditions set out in Part 1, the following terms shall apply:

Delivery shall be deemed executed once the Goods have been loaded into the Purchaser’s vehicle of transport.

ADM shall deliver the Goods to the Purchaser based on individual orders placed by the Purchaser. Orders have to be delivered by Purchaser to ADM in writing (including e-mails) no later than three (3) working days before the expected day of delivery from the order.

ADM has the right to withhold the delivery of Goods until all due payments have been made in accordance with the Contract.

The following documents will be attached to each shipment by ADM:

- 1) Invoice
- 2) Delivery note
- 3) Quality Certificate
- 4) Non-GMO report
- 5) Weighing note

**9.7. Replacement delivery conditions.** ADM shall act according to the Article 5.2. of the General Terms and Conditions set out in Part 1 only in case the Purchaser has informed ADM of its claim within fifteen (15) days of the discovery of the non-compliance in written and enabled ADM to re-examine the nonconforming Goods.

**9.8. Collateral.** As collateral for the payment of the agreed price, the Purchaser will issue to ADM 3 (three) blank certified, signed, solo, registered bills of exchange with a "no protest" clause, with the corresponding endorsement letter and a signature specimen card, so that in case of non-fulfilment of contractual obligations the outstanding part of the obligation can be collected.

The above bills of exchange are also applicable in the event of a change in the persons authorized to represent the contracting parties, persons authorized to use funds from accounts, changes in the seal, status changes, as well as other significant changes.