



Terms and Conditions

## **GREENFIELDS IRELAND LIMITED (“the Company”)**

### **Terms and Conditions of Sale**

#### **1. General**

- 1.1** All quotations, specifications and all orders for the sale and purchase of goods by a Purchaser (the “Purchaser”) from the Company (“Goods”) are subject to these Terms and Conditions of Sale (“Conditions”), which supersede any other terms, descriptions, specifications or conditions contained, mentioned or referred to in the Company’s documentation or elsewhere, and override and exclude any other terms stipulated or incorporated or referred to by the Purchaser (including terms implied by custom, trade or practice), whether in an order or in any negotiations or in any course of dealing established between the Company and the Purchaser. All subsequent orders made by the Purchaser shall be similarly subject to these Conditions.
- 1.2** Every contract for the sale of the Goods to the Purchaser and all descriptions or specifications of such Goods in any Company document shall be deemed to include and shall be in accordance with these Conditions and all purchase orders for Goods shall be deemed to be an offer by the Purchaser to buy the Goods pursuant to these Conditions.
- 1.3** The Purchaser acknowledges that there is no term, statement, promise or representation outside of these Conditions which have induced it to enter into the contract (which expression shall include any contract of which these Conditions form part) for the purchase of Goods and the sales order confirmation, the specification of the Goods prepared or accepted by the Company (“Specification”), the invoice issued by the Company and these Conditions represent the entire agreement between the Company and the Purchaser.
- 1.4** No amendment to or modification of these Conditions shall be effective unless made by an express written agreement between the parties which is specifically expressed to modify or exclude these Conditions. The signing by the Company of any of the Purchaser’s documentation shall not be construed as any express or implied modification of these Conditions or as acceptance of the terms of such documentation.
- 1.5** In the absence of a prior written acceptance of these Conditions by the Purchaser acceptance of delivery of the Goods by or on behalf of the Purchaser shall be deemed conclusive evidence of the Purchaser’s acceptance of these Conditions.

#### **2. Quotations.**

- 2.1** A Quotation given by the Company is subject to withdrawal at any time prior to receipt of an unconditional order from the Purchaser accepting the quotation and shall in any event be deemed to be withdrawn unless so accepted within 3 business days from the date of the quotation. In any event, any order sent by the Purchaser shall be accepted at the Company’s sole discretion.

#### **3. Quality.**

- 3.1** The Company warrants that on delivery the Goods shall:
- (a) conform in all material respects with their description and any applicable specification; and
  - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979; and
  - (c) be fit for any purpose held out by the Company.
- 3.2** Subject to clause 3.3, if:
- (a) the Purchaser gives notice in writing to the Company within 3 business days of the Delivery (as defined in Condition 6) that some or all of the Goods do not comply with the warranty set out in clause 3.1; and
  - (b) the Company or its agent is given a reasonable opportunity of examining such Goods; and
  - (c) the Purchaser (if asked to do so by the Company) returns such Goods to the Company’s place of business or designated address at the Purchaser’s cost, the Company shall, at its option, restore or replace the defective Goods or refund the price of the defective Goods in full.
- 3.3** The Company shall not be liable for Goods’ failure to comply with the warranty set out in clause 3.1 if:
- (a) the Purchaser makes any further use of such Goods after giving notice in accordance with clause 3.2; or

- (b) the defect arises because the Purchaser failed to follow the Company’s oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice; or
  - (c) the defect arises as a result of the Company following any instruction or specification supplied by the Purchaser; or
  - (d) the Purchaser alters or mixes such Goods without the written consent of the Company; or
  - (e) the defect arises as a result of natural processes (including decomposition) fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.
- 3.4** Except as provided in this clause 3, the Company shall have no liability to the Purchaser in respect of the Goods’ failure to comply with the warranty set out in clause 3.1.
- 3.5** Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 3.6** No warranty or representation is given or made by the Company that:
- (a) the Goods may be lawfully supplied or offered for sale outside the United Kingdom which risk shall be borne exclusively by the Purchaser; or
  - (b) the Goods are suitable for mixing, blending or compounding with other goods (“Other Goods”) unless, prior to the issue of the Sales Order Confirmation by the Company, the Purchaser has made full disclosure of all material facts relating to the use to which the Other Goods are to be put and of any particular standards, requirements or specifications to which the Other Goods are expected to conform and the Company has expressly accepted in writing an obligation to supply Goods which will be suitable to be used in connection with the Other Goods. The Purchaser shall be solely liable for all claims, losses, damages and liabilities arising as a consequence of the Purchaser’s failure to make such disclosure and will indemnify and hold harmless the Company in respect of all claims, liabilities, costs and expenses howsoever and whensoever arising in respect thereof.
- 3.7** All representations, warranties or guarantees given to third parties by the Purchaser with reference to the Goods are given entirely at the risk of Purchaser regardless as to whether or not such representations, warranties or guarantees are consistent or inconsistent with these Terms and Conditions and the Company accepts no liability for such representations, warranties or guarantees whatsoever.
- 3.8** These Conditions shall apply to any replacement Goods supplied by the Company.
- 3.9** The Company’s maximum liability to the Purchaser in respect of or arising out of any contract for the sale of Goods whether in contract or in tort (including negligence and breach of statutory duty) or otherwise howsoever arising shall not exceed a sum equal to twice the value of the Goods to the Company exclusive of VAT or any other applicable tax or duty.
- 3.10** Under no circumstances does the Company accept responsibility for loss of profit, revenues, business goodwill or anticipated savings by the Purchaser or for any pure economic loss or special indirect or consequential damage of whatsoever nature and howsoever arising.
- #### **4. Specification.**
- 4.1** Unless contained in the Specification accepted in writing by the Company, the Company reserves the right and discretion to alter or change dimensions or composition of the Goods prior to despatch (acting reasonably) and having regard to the nature of the Goods and the purposes to which the Purchaser has made the Company aware in writing the Goods are intended to be put.
- 4.2** The Purchaser shall hold harmless and indemnify the Company from and against all actions claims costs and proceedings which arise due to the manufacture, storage or sale of Goods (including without limitation where the Purchaser’s Specification is inaccurate or misleading or where it is alleged that the Purchaser’s Specification and/or own label involve an infringement of a patent, copyright, registered design or design copyright, trademark or other intellectual property right held by any other party).
- #### **5. Interference with Markings.**
- 5.1** The Purchaser shall not alter, obscure, remove, conceal or otherwise interfere with any markings or other indication of source or origin on any Goods, their labelling or packaging.

## **6. Delivery.**

- 6.1** Any delivery date quoted by the Company is an estimated date only and the Company shall not be liable for any loss or damage occurring through any failure or inability to meet such date.
- 6.2** Delivery shall be at the Company's premises unless otherwise stipulated or agreed in writing by the Company ("Delivery"). The Company may charge for Delivery at a location other than its premises.
- 6.3** If the Purchaser refuses or fails to take Delivery of Goods tendered in accordance with a contract with the Company the Company shall be entitled to immediate payment in full for the Goods so tendered. The Company shall be entitled to store at the risk of the Purchaser any Goods of which the Purchaser fails or refuses to take delivery and the Purchaser shall in addition to the purchase price pay on demand all costs of such storage and any additional costs incurred as a result of such failure or refusal. The Company shall be entitled in the case of short-life Goods immediately to dispose of the same in such manner as the Company may in its absolute discretion determine and in the case of all other Goods the Company shall be entitled after the expiration of one month from the date of failure or refusal to take delivery to dispose of the Goods in such manner as it may in its absolute discretion determine. The sale proceeds shall (in each case) be deemed to be a payment on account of the monies due to the Company by the Purchaser under these Conditions.
- 6.4** Delivery to a carrier (whether or not nominated or engaged by the Purchaser or the Company) shall be deemed to be delivery to the Purchaser.

## **7. Claims for Loss, Damage or Shortages.**

- 7.1** Subject to these Conditions, acceptance of Goods by the Purchaser shall be deemed to take place on Delivery. Goods are not supplied on a sale or return basis.
- 7.2** Delivery notes must be checked and signed by the Purchaser upon Delivery. In the absence of a signed Delivery note, invoices will be deemed proof of Delivery of all Goods specified therein unless claims in respect of Loss, Damage or Shortages are submitted by the Purchaser in writing within 3 business days of the date of Delivery in accordance with the terms of Condition 3.2.
- 7.3** The Company shall be deemed to have fulfilled its contractual obligations in respect of any Delivery regardless of the fact that the quantity may be up to 5% more or less ("the Margin") than the quantity specified in the contract for the Goods and in such event the Purchaser shall pay for the actual quantity delivered subject to verification to the Company's satisfaction.
- 7.4** In the event of underweight Goods greater than the Margin the Company shall only be liable to make up the shortfall or give a credit note at the Company's absolute discretion.
- 7.5** In the case of non-Delivery, the Purchaser must within 3 business days of the estimated date of Delivery so advise the Company in writing.
- 7.6** Notwithstanding anything in these Conditions expressed or implied to the contrary, the Company shall not be liable in respect of any shortage of or failure to supply Goods where such shortage or failure is due to riot, war, threat of or preparation for war, explosion, fire, flood, invasion, storm, earthquake, subsidence, epidemic or other natural physical disaster or acts or restraints of government, civil commotion, strikes, lock-outs, stoppages or restraint or withdrawal of labour or other industrial action or shortages of labour or of materials or any acts or events or circumstances beyond the reasonable control of the Company for whatever cause whether partial or general and the Company in such circumstances shall not be liable in respect of any loss to the Purchaser (consequential or otherwise) arising therefrom.
- 7.7** Save in the case of a total or partial loss of the Goods caused by an insured risk, if the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Purchaser in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods subject always to the limits contained in Condition 3.10.

## **8. Title and Risk.**

- 8.1** The risk of loss or damage to all or any of the Goods shall pass to the Purchaser upon Delivery, if the Purchaser has paid for the Goods and their carriage of the Goods to the Company on a "cost of carriage, insurance and freight" basis. If the Purchaser has paid for the Goods and their carriage on a "cost of carriage and freight" basis only then risk of such loss or damage shall pass to the Purchaser upon despatch of the Goods by the Company from the Company's premises or from any premises used by it or the Company's suppliers for the storage of the Goods prior to despatch to the Purchaser.

- 8.2** It is a condition of any contract for the sale of Goods that the title to all of the Goods to be delivered by the Company to the Purchaser shall remain vested in the Company until payment due to the Company under all contracts between the Company and the Purchaser has been made in full. Even though the title to the Goods has not passed to the Purchaser the Company shall be entitled to issue and serve proceedings for the price of the Goods together with interest and costs once payment has become due.
- 8.3** Until such time as the title to the Goods passes to the Purchaser, the Purchaser shall hold the Goods as the Company's fiduciary agent and bailee and shall (at the Purchaser's own cost) ensure that the Goods remain separately identifiable from those of the Purchaser and third parties and appropriately stored in every respect, protected and maintained in a satisfactory condition, insured for their full price and identified as the Company's property. Until that time, the Purchaser shall be entitled to re-sell or use the Goods in the ordinary course of its business.
- 8.4** In the event of sale of the Goods or any part of them by the Purchaser in the ordinary course of its business, the Purchaser shall, if required by the Company, assign to the Company its right to recover the selling price from the third party concerned and sign a form of assignment submitted to the Purchaser by the Company.
- 8.5** Until such time as the title to the Goods passes to the Purchaser (and provided that the Goods are still in existence and have not been re-sold), the Company shall be entitled to require the Purchaser to deliver up the Goods to the Company and, if the Purchaser fails to do so forthwith, the Company or its agents are hereby granted by the Purchaser an irrevocable right and licence to enter upon any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.
- 8.6** The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company but, if the Purchaser does so, all monies owing by the Purchaser to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

## **9. Prices.**

- 9.1** Prices charged for Goods are those stated in the contract for the sale of the Goods or (if not so stated) as published by the Company at the date of the contract for the sale of the Goods.
- 9.2** All prices quoted are until acceptance by the Purchaser subject to alteration without notice and unless otherwise stated are net of VAT and any other tax or duty.
- 9.3** Where the Company has quoted a price it reserves the right to adjust such quoted prices (1) prior to the issue of the Sales Order Confirmation to take account of increases caused by additions to or increases in the cost of labour, materials, manufacture, transport and ancillary charges or currency fluctuations or taxes or any other factor beyond the Company's control or (2) following any request made by the Purchaser to change the terms of the order occurring at any time after the date of the quotation.

## **10. Payment.**

- 10.1** Unless otherwise agreed in writing, all accounts are due for payment in full without any deduction or set-off (legal or equitable) or counterclaim by the due date as stated on the invoice for payment of the Goods. If no due date is stated on the invoice, the account is due for payment 14 days after delivery of the Goods which are the subject of the invoice.
- 10.2** Unless otherwise agreed in writing, all sums payable shall be paid in sterling and the place of payment shall be Northern Ireland.
- 10.3** For Contracts of Sale of Goods which are agreed by the Company to be in the Euro currency;
- the Euro currency is defined as the currency of the Eurozone from time to time; and
  - if the Purchaser is resident or has its principal place of business in a Eurozone Member State and that Eurozone Member State withdraws from the Euro then the currency of the contract can only be amended with the agreement of the Company; and
  - without prejudice to paragraphs (b) and (c) above and Condition 19, the Purchaser waives its rights under the domestic law of the Purchaser to satisfy payment in any currency not specified under the terms of the contract; and
  - Without prejudice to paragraphs (a) to (c) above and notwithstanding same if following the withdrawal of the Euro Member State in which the Purchaser resides or carries on its principal place of business the Company suffers a loss or damage or does not enjoy the profit it reasonably expected under the contract for the sale of Goods subject to these Conditions, then the Purchaser shall indemnify and keep indemnified the Company against any such loss, damage or loss of profit.

- 10.4** Without prejudice to any other right or remedy, the Company reserves the right to suspend immediately the delivery of further supplies of Goods if the Purchaser fails to settle any invoices in accordance with these Conditions or if there is any outstanding liability owed to it by the Purchaser or if, in its opinion, the Purchaser will not be able to meet or is unlikely to be able to meet any existing or future commitments or obligations to the Company.
- 10.5** The Company reserves the right to charge interest at 6% above LIBOR bank rate for the time on sums unpaid after the due date of the relevant invoice. Interest shall be chargeable for the period from the date such invoice became due for payment until the date payment is made in full of the amount of the invoice.
- 10.6** "LIBOR" means in respect of the amount of the Price and any period during which the Price remains unpaid, the rate certified by the Company as the offered rate quoted to the Company's bankers in the London Interbank Market by leading banks or the British Bankers Association Interest Settlement Rate displayed on the appropriate page of the Reuters screen at or around 11.00 am on the first day of that period for delivering a sterling deposit of an amount comparable to that amount for a period equal to that period.
- 10.7** The failure of the Purchaser to pay any part of the price of the Goods in due time shall entitle the Company to treat such failure as a repudiation of the whole contract relating to such order by the Purchaser and to recover damages for such breach of contract.
- 10.8** Notwithstanding anything in these Conditions expressed or implied to the contrary, in the event of the Purchaser ceasing to take supplies from the Company (for whatever reason) or the Company ceasing to deliver supplies to the Purchaser (for whatever reason) then and in such circumstances all sums invoiced or to be invoiced in respect of Goods supplied shall fall due for immediate payment.
- 10.9** Any sums which may be owing from time to time by the Company to the Purchaser (whether under the same contract or otherwise) may be set off at the absolute discretion of the Company in extinction or diminution of amounts due (if any) from time to time to the Company or any associated or related company by the Purchaser.

#### **11. Insolvency of Purchaser.**

- 11.1** If the Purchaser becomes subject to any of the events listed in clause 2, or the Company reasonably believes that the Purchaser is about to become subject to any of them and notifies the Purchaser accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all further deliveries under the contract or under any other contract between the Purchaser and the Company without incurring any liability to the Purchaser, and all outstanding sums in respect of Goods delivered to the Purchaser shall become immediately due.
- 11.2** For the purposes of clause 1, the relevant events are:
- (a) the Purchaser suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of Article 103 of the Insolvency (Northern Ireland) Order 1989, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of Article 242 of the Insolvency (Northern Ireland) Order 1989, or (being a partnership) has any partner to whom any of the foregoing apply; or
- (b) the Purchaser commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Purchaser is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Purchaser with one or more other companies or the solvent reconstruction of the Purchaser; or
- (c) (being an individual) the Purchaser is the subject of a bankruptcy petition or order; or
- (d) a creditor or encumbrancer of the Purchaser attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Purchaser; or
- (f) (being a company) a floating charge holder over the Purchaser's assets has become entitled to appoint or has appointed an administrative receiver; or

- (g) a person becomes entitled to appoint a receiver over the Purchaser's assets or a receiver is appointed over the Purchaser's assets; or
- (h) any event occurs, or proceeding is taken, with respect to the Purchaser in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause (a) to clause (g) (inclusive); or
- (i) the Purchaser suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or
- (j) the Purchaser's financial position deteriorates to such an extent that in the Company's opinion the Purchaser's capability adequately to fulfil its obligations under the contract has been placed in jeopardy.
- (k) (being an individual) the Purchaser dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

#### **12. Waivers.**

- 12.1** A waiver of any right or remedy under a contract for the sale of Goods is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

#### **13. Force Majeure.**

- 13.1** To the extent that the execution of any order by the Company is hindered delayed or rendered impossible or uneconomical by reason of force majeure (as hereinafter defined) the Company shall as soon as practicable notify the Purchaser and thereupon and to that extent the Company is inhibited the Company and the Purchaser (subject to the Condition below) shall be excused from performance of the contract to that extent and (where applicable) the prices shall be adjusted pro rata.
- 13.2** The Purchaser shall notwithstanding the force majeure event reimburse the Company any costs incurred by it in and about the performance of any contract relating to the manufacture or labelling of Goods to the specification of the Purchaser if the Company cannot readily utilise or dispose of any stocks of ingredients or manufactured or partly manufactured Goods labels or packaging.
- 13.3** For the purpose of this Condition, force majeure shall be deemed to:
- (a) Subject always to the provisions of Condition 13.3 (b) include any cause affecting performance of the contract arising from or attributable to acts or events or circumstances beyond the reasonable control of the Company and in particular, but not exclusively, shall include the following: strikes, lock-outs, stoppages, restraint or withdrawal of labour or other industrial action or shortages of labour, shortages of materials, civil commotion, riot, invasion, war, threat of or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic (human or animal) or other natural physical disaster, acts intervention and restraints of government (domestic or other) or other body with due authority; and
- (b) exclude (in the case of a Contract for the purchase of Goods where the agreed payment currency is in Euros) the withdrawal by the Euro Member State of the Purchaser (if the Purchaser is resident or has its principal place of business in that Euro Member State) from the Euro in which case the Purchaser shall not be excused or relieved, released or discharged (in whole or in part) from any of its obligations (including payment obligations) under any contract for the purchase of Goods from the Company subject to those Conditions.

#### **14. Export Terms.**

- 14.1** The interpretation of export trade terms shall be in accordance with Incoterms 2010 (current edition) unless and in so far as Incoterms 2010 and these Conditions are in accord. In the event of conflict these Conditions will prevail.

#### **15. Assignment.**

- 15.1** This contract is between the Company and the Purchaser as principals. The Purchaser may not assign, transfer or sub-contract the contract without the prior written consent of the Company. The Company may assign, transfer, licence or sub-contract any part of its rights and obligations under the contract without the Purchaser's consent.

## **16. Notices.**

**16.1** Any notice or other information required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and may be given by pre-paid registered post, special delivery or express delivery service, or by facsimile transmission or by transmission via a reputable private courier company and any notice or information so sent shall be deemed to have been properly and effectively given, if sent by registered post, special delivery, express delivery service or by courier the day delivery is signed for on behalf of the addressee or, or by facsimile transmission or comparable means of communication, 24 hours after it has been transmitted.

## **17. Third Party Rights.**

**17.1** For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Company and the Purchaser agree that they do not intend that any terms of any contract entered into by them shall be enforceable by any third party who but for that Act would not have been entitled to enforce such terms.

## **18. Severance.**

**18.1** If any court or competent authority finds that any provision of a contract for the sale of Goods or these Conditions (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the contract or these Conditions shall not be affected.

**18.2** If any invalid, unenforceable or illegal provision of the contract or these Conditions would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

## **19. Interpretation and Competent Jurisdiction.**

**19.1** Any contract for the sale of Goods to a Purchaser and these Conditions shall be governed by and interpreted in accordance with the Law of Northern Ireland and the Purchaser submits to the non-exclusive jurisdiction of the courts in Northern Ireland. The Company may at its discretion seek to enforce any such contract or determine any dispute or difference in respect of any such contract in any court of competent jurisdiction.

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