

**Terms & Conditions of Sale**

**1. DEFINITIONS**

- A) **“Seller”** means Green Pastures (Donegal) Ltd.
- B) **“Buyer”** means the person, firm or company placing an order with the Seller.
- C) **“Products”** means all those Products and materials which are the subject of the Buyer’s order and which are to be supplied to the Buyer by the Seller under these Conditions.
- D) **“Contract”** means the contract for the supply of Products formed by the Seller’s acceptance (which, however made or communicated, shall be deemed made subject to these Conditions) of the Buyer’s order.

**2. FORMATION OF CONTRACT**

- 2.1 All Products sold by the Seller are sold subject to these Conditions of Sale and these Conditions of Sale shall be the sole terms and conditions of any sale by the Seller to the Buyer. Terms and Conditions on the Buyers order form or other similar documents shall not be binding on the Seller and the placing of an order for or the acceptance of the Products by the Buyer shall indicate unqualified acceptance of these Conditions of Sale.
- 2.2 No representative, agent or sales person has the Seller’s authority to vary, amend or waive any of these Conditions of Sale on behalf of the Seller and no amendment or addition to any of these Conditions shall be deemed to have been accepted unless accepted in writing by the Seller.

**3. ORDERS AND DELIVERY**

- 3.1 The Sellers order office will be open to receive orders for Products on Monday to Friday between the hours of 8:30am – 17.30pm.
- 3.2 Orders for delivery of all Products must be placed with the Seller’s order office by midday of any given day for delivery as set out in the seller’s letter of quotation.
- 3.3 Orders are accepted by the Seller subject to the availability of Products for delivery.
- 3.4 The minimum order for all Products is for 400kg of Product unless otherwise agreed in writing.
- 3.5 Delivery of Products within the UK will be made at the cost of the Buyer to the address specified in the Buyer’s order by any method of transportation regarded as suitable by the Seller at its discretion and delivery of Products destined for export outside the UK will be as stated in the Contract. All such costs will be added to the Ex-dairy price in accordance of clause 5.2.
- 3.6 Although the Seller will use all reasonable efforts to meet delivery dates, it shall not be liable to the Buyer for any loss or damage, whether direct, indirect or consequential if it is delayed or prevented, in whole or in part, from delivering the Products.
- 3.7 If the Buyer refuses or fails to take delivery of the Products on the date of delivery, the Seller will be entitled at its discretion to store the Products at the risk of the Buyer and the Buyer shall in addition to the price payable

pay all costs and expenses of such storage and any additional costs of carriage incurred.

- 3.8 The Seller reserves the right to deliver in instalments at its discretion.
- 3.9 All Products must be inspected by the Buyer immediately on delivery. If any Products are damaged or lost or if (subject to clause 3.3) there has been short delivery, the Buyer must endorse the consignment note accordingly and submit a detailed written claim to the carrier within 2 working hours of delivery of the Products and supply a copy of such claim to the Seller within 7 days of delivery of the Products. The Buyer's signature on the consignment note without any such endorsement shall release the Seller from any liability in respect to damage or loss in transit or short delivery.
- 3.10 All deliveries made by the Seller will be made on standard 1200 x 1000 Blue Chep pallets unless agreed otherwise.
- 3.11 Pallets shall be exchanged with the delivering haulier on a one for one basis and evidence of this shall be noted on the counterpart copy of the consignment note.
- 3.12 All Products will be delivered at a temperature of 5°C or below. Any claims made by the Seller or its agents that Products were at the time of delivery above these temperatures must be accompanied by the results from an industry recognised destructive temperature probe test.
- 3.13 All specifications, including without limitation the design of packaging and any colours and product composition, and particular weights and dimensions submitted by the seller are approximate only and the seller shall have no liability in respect of any deviation therefrom. The seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable safety, food hygiene or other statutory requirements.

#### **4. RISK**

- 4.1 Except as otherwise provided in these Conditions, the risk of loss or damage to the Products shall pass to the Buyer upon delivery of the Products in accordance with clause 3.5.

#### **5. PRICE**

- 5.1 The price payable for the Products shall be as stated in the Seller's Ex-factory price list (or quotation relating to the Products) unless otherwise stipulated in writing by the Seller. Transport costs will be added at cost as set out in the Seller's letter of quotation.
- 5.2 The Ex-factory price is exclusive of the cost of delivery in the UK in accordance with clause 3.5 and exclusive of Value Added Tax, customs duties and all other taxes, duties and expenses in respect of the Products all of which shall be added to the price for the Buyer's account unless otherwise stipulated in writing by the Seller.

#### **6. PAYMENT**

- 6.1 Unless otherwise agreed in writing, the Buyer shall make payment for the Products in pounds sterling within thirty days following the date of invoice.

- 6.2 Any payment or part thereof remaining unpaid after the due date shall, at the absolute discretion of the Seller, be subject to late payment interest at the rate of 8% over the Bank of England base rate, or at the rate stipulated by current legislation, whichever is the higher, until the date of payment. Compensation for debt recovery costs as laid down by current legislation will also be payable by the Buyer.
- 6.3 The Buyer shall not purport to set off or withhold any payments claimed or due to the Seller under this or any other contract.

## **7. TITLES AND LIEN**

- 7.1 The Seller shall retain title to and ownership of the Products until it has received payment in full of all sums due for all Products supplied to the Buyer. If payments received from the Buyer are not stated to refer to a particular invoice the Seller may appropriate such payments to any outstanding invoice.
- 7.2 Until payment of the purchase price the Buyer shall be the bailee of the Products of the Seller and the Products shall be stored separately from any Products which belong to the Buyer or any third party, and shall be clearly marked and identifiable as being the Seller's property. The Seller hereby licenses the Buyer to sell, as the Seller's agent and bailee Products which belong to the Seller.
- 7.3 If the Buyer fails to make any payment to the Seller when due, compounds with its creditors, executes an assignment for the benefit of its creditors, has a bankruptcy order against it or, being a company, enters into voluntary or compulsory liquidation or has an administrator or administrative receiver or receiver appointed over all or part of its assets or takes or suffers any similar action in consequence of debt or becomes insolvent or if the Seller has reasonable cause to believe that any of these events is likely to occur, the Seller shall have the right without prejudice to any other remedies:
- i. to enter without prior notice any premises where Products owned by it may be, and to repossess and dispose of any Products owned by it so as to discharge any sums owed to it by the Buyer under this or any other contract
  - ii. to require the Buyer not to resell or part with possession of any Products owned by the Seller until the Buyer has paid in full all sums owed by it to the Seller under this or any other contract,
  - iii. to withhold delivery of any undelivered Products and stop any Products in transit.

Unless the seller expressly elects otherwise, any contract between it and the Buyer for the supply of Products shall remain in existence notwithstanding any exercise by the Seller of its rights under this clause 7.

- 7.4 The Products shall, once the risk has passed to the Buyer in accordance with clause 4 or otherwise, be and remain at the Buyer's risk at all times unless and until the Seller has retaken possession of them, and the Buyer shall insure accordingly.

## **8. WARRANTY**

- 8.1 The Seller warrants that the Products will be of satisfactory quality and will comply with all applicable UK legislation governing the sale of the Products and the Seller will at its option refund the purchase price of or replace free

of charge any Products which its examination confirms are defective provided:

- iv. the Buyer makes a full inspection of the Products immediately upon delivery,
- v. the Buyer notifies the Seller forthwith of any defects which it discovers,
- vi. the Buyer has stored the Products in a suitable environment and at the appropriate temperature and,
- vii. the Products are either made available to the Seller for inspection or returned to the Seller at the Buyer's own expense, as the Seller may request.

8.2 In no circumstances shall the Seller's liability to the Buyer for any breach of warranty exceed 125% of the price paid for the Products with respect to which the claim is made.

8.3 Except as provided for in these Conditions, there are no warranties, express or implied, of fitness for a particular purpose, or of any other kind except as to title. In particular, all conditions and warranties which would otherwise be implied by statute or under the common law are hereby excluded to the fullest extent permitted by law.

## **9. LIABILITY**

9.1 The Seller shall under no circumstances be liable for any indirect, special or consequential loss (including loss of anticipated profit of third party claims) howsoever arising either from breach or non-performance of any of its obligations under the Contract or from the supply of or intended use of the Products, even if the Seller has been advised of the possibility of such potential loss. The Seller shall be liable without limit for loss arising from death or personal injury resulting from the proven negligence of the Seller and nothing in these Conditions of Sale shall have the effect of excluding or limiting liability under the Liability for Defective Products Act 1991 to a person who has suffered damage caused by a defective product, or a dependent or relative of such person.

## **10. TERMINATION**

10.1 Should the Buyer make default in any payment or otherwise be in breach of its obligations to the Seller under the Contract or under any other contract with the Seller or compound with or execute and assignment for the benefit of its creditors or commit any act of bankruptcy or being a company enter into voluntary or compulsory liquidation or suffer a receiver or administrative receiver of administrator to be appointed over all or part of its assets or take or suffer any similar action in consequence of debt or become insolvent or should the Seller may, by notice in writing to the Buyer, without prejudice to any other rights, forthwith suspend or cancel any uncompleted part of the Contract or stop any Products in transit or require payment in advance of satisfactory security for further deliveries under the Contract.

## **11. FORCE MAJEURE**

11.1 The Seller shall not be liable to the Buyer for any loss of damage caused to or suffered by the Buyer as a direct or indirect result of the supply of the Products by the Seller being prevented, restricted, hindered or delayed by reason of any circumstances outside the control of the Seller including, without limitation, circumstances affecting the provision of all or any part of

the Products by the Seller's usual source of supply or delivery of by the Seller's normal route of means of delivery.

**12. WAIVER**

12.1 The failure of the Seller to insist upon the strict performance of any of the terms and conditions of the Contract shall not be construed as a waiver of any such term or condition and shall in no way affect the Seller's right to enforce such provision later.

**13. SEVERABILITY**

13.1 If any of the terms and conditions of the Contract (or part thereof) shall be found to be invalid, ineffective or unenforceable, the invalidity, ineffectiveness or unenforceability of such term or condition (or part thereof) shall not affect any other term of condition (or the other part of the term or condition of which such invalid, ineffective or unenforceable part forms part) and all terms and conditions (or parts thereof) not affected by such invalidity, ineffectiveness or unenforceability shall remain in full force and effect.

**14. THIRD PARTIES**

14.1 The Seller and the Buyer agree that no term of the Contract shall be enforceable by any third party.

**15. ARBITRATION**

15.1 Any dispute, controversy or claim arising out of or relating to this agreement shall be referred to and finally resolved by Arbitration under the provisions of the Arbitration Act 2010, and any statutory amendment or modification thereof, by a sole arbitrator to be appointed by the President of the Law Society. The Seat of Arbitration shall be in Dublin, Ireland. The language of the Arbitrator shall be English. The Award of the Arbitrator shall be final and binding on the parties and may be enforced in any court of competent jurisdiction.

15.2 Costs - The costs of any Arbitration and the fees of the Arbitration shall be advanced in the first instance by the parties in equal shares. The Arbitrators shall have the power to reallocate the costs as justice may require, but any request for allocation of costs must be made in writing by the requesting party. The Arbitrator may award to the prevailing party on any Arbitration the prevailing party's fees and other costs in any such Arbitration.