



## TERMS AND CONDITIONS OF EX FARM/ DELIVERED TRADE PURCHASES BY DUNNS LTD

July 2013

These are the Terms and Conditions of Trade (hereafter "Buyer's Terms") of Dunns (Long Sutton) Ltd (hereafter "Buyer") for the grain marketing year 2013/2014 which relates to all Ex Farm/Delivered purchases from first producer to first buyer.

### Terms and Conditions of Purchase:

All Grains and Pulses are bought by the Buyer strictly and only under the terms and conditions of the AIC Grain/Pulses contract No.1/12 or any amendment or update to that contract issued prior to the date of transaction. We buy oilseed rape only on the terms of the FOSAF26A contract and Linseed only on the terms of the FOSFA9A contract. Copies of these contracts and the current version of the combinable crops passport are available as downloads from Buyer's website [www.dunns-ls.co.uk](http://www.dunns-ls.co.uk).

All seed is bought by the Buyer strictly and only under the terms and condition of DEFRA seed certification standards which can be obtained from DEFRA or any OSTs or LSTS. Seed will also be required to adhere to AIC Grain contract No.1/12 or any amendment or update to that contract issued prior to the date of transaction.

Our variances to the terms of the AIC contract No.1/12 relate to three clauses as follows:

### Clause 5: Quantity

The below shall apply only to purchases of a fixed tonnage, not to produce of an area sown:

"The Seller shall have the option of delivering 5% or 15 tonnes (whichever is the lesser quantity) more or less than the contractual quantity at the contract price"... is replaced by... ***"The Buyer shall have the option to accept delivery of 5% or 15 tonnes (whichever is the lesser quantity) more or less than the contractual quantity at the contract price"***.

### Clause 7: Period of Delivery (Contract Period)

- a) The Buyer will make every effort to give two clear business days notice when passing delivery instructions, although this is not a condition of the contract and does not entitle the Seller to place Buyer in default if Buyer fails to comply.
- b) Buyer will not accept any liability for claims arising from delays to transport occasioned by any cause.
- c) All deliveries to Buyers facilities must have the contract reference, variety, commodity and grade clearly stated on the delivery ticket/note and passport.
- d) Buyer reserves the right, by giving notice latest two working days before the end of the original collection/delivery period on any contracts, to claim a 15 day extension to the collection/delivery period at a premium of £0.50 per tonne to the original contract price.
- e) As available

Where goods are sold specifically on an 'As available' basis it is the responsibility of the Sellers to notify Buyer that the total contractual quantity of goods is available for collection and, where appropriate, advise the variety and quality of those goods. Buyers are entitled to the remainder of the contractual period of delivery/collection in which to effect clearance. All purchases are concluded on the basis that the Buyer's Terms and/or delivery of the end receiver are expressly incorporated into this purchase and shall apply to supplement these Terms. For the avoidance of doubt, the receiver of the Grain/Seed/Goods is the operator of the delivery installation. The delivery destination is available from Buyers when bookings/collection instructions are issued. Copies of the receivers terms are available from Buyers upon written request.

#### **Clause 21: Claims**

In addition to the clause as stated, we apply the following, ***"Dunns will inform Sellers of claims as soon as possible and within a maximum of two working days"***. Failure is not a reason for breach of contract.

Buyers at all times trade under AIC and FOSFA contracts which incorporate a written agreement to determine disputes by arbitration. No other provisions for dispute resolution shall be applied other than the Arbitration Rules of AIC and FOSFA respectively. Other issues relating to the purchase of grain and oilseeds are addressed below:

#### **Contract Confirmation**

Each transaction will be confirmed by email or on a computer generated form (Contract Confirmation). Buyback contracts will have Buyback Terms attached. When the Seller receives the confirmation it is their responsibility to check that all the details are correct. If the Seller finds any details with which they do not agree they must contact the Buyer forthwith. Failure to advise alleged errors within three days from the date of the confirmation will render the Seller liable to the confirmed details. The Buyer will issue to Sellers a monthly statement showing all outstanding contracts held on the Sellers account. If the Seller has any query regarding any contract listed their duty is to contact the Buyer immediately to seek clarification of any issue.

#### **Communication**

If the Seller needs to contact the Buyer concerning a particular contract they must quote Buyers contract reference number to enable the Buyer to answer any queries quickly and efficiently.

#### **Farm Assurance**

Unless stated at the time of trade, all transactions (unless specifically shown otherwise on the contract confirmation, or where a Seller has informed Buyers that they are not Farm Assured) will be deemed to be Farm Assured. We require-to be informed of the Seller's assurance scheme and scheme number if these have not previously been made known.

#### **Renewable Energy Directive (RED)**

Grains and oilseeds destined for the Bio-fuels industry must be compliant with the Renewable Energy Directive (RED) in all respects.

#### **Farm Sampling/Collections**

Buyers endorse the Farm Assurance guidelines which state that all growers should take representative samples as their grain as it is put into store. Buyers are able to supply sample bags and/or to collect samples from the Seller's identified locations. Buyers will continue to offer a sampling service for Sellers who are unable to provide and deliver samples. However, Buyers are unable to sample grain stored in enclosed or confined spaces e.g. bins. By taking samples or making analyses Buyers will not accept any

liability for analytical results. Contractual determination of the quality and condition of the goods will be made at the point of delivery only.

All seed will be required to be sampled and tested prior to movement as per DEFRA standards. However, Buyers will not accept any liability for analytical results resulting from the farm sample testing. Contractual determination of the quality and condition of the goods will be made at the point of delivery only.

#### **Dusts**

Post harvest applications of Diatomaceous Earth (silica dust) and its derivatives are not acceptable and no goods so treated will be accepted as part of any consignment.

#### **Prohibited Substances in Horse Feed**

Buyers subscribe to the Universal Feed Assurance Scheme's Compound Feeds Code of Practice 2012, including Appendix 7 thereto (together, "the Code"), which addresses the control of Naturally Occurring Prohibited Substances ("NOPS") in equine feeds. All goods supplied for use in the manufacture of equine feeds shall comply with the Code in all respects and Sellers warrant that all goods to be supplied to Buyers for such use do so comply. Without prejudice to any other remedy that Buyers shall have, should Buyers notify Sellers of the presence of NOPS in any goods supplied, Suppliers shall use their best endeavours to cooperate with Buyers to identify the source(s) of the NOPS and thereafter to ensure that further supply is prevented.

#### **Labelling Requirements on Oilseed Rape**

All conventional EU and non-EU origin oilseed rape delivered must adhere to the following statement.

*"This statement applies to conventional rapeseed of EU and non-EU origin. In compliance with the Regulation on genetically modified food and feed, and the Regulation concerning the traceability and labelling of genetically modified organisms, we (the Seller) hereby confirm that rapeseeds delivered to Buyers from harvest year 2012 are not subject to the labelling requirements specified in the regulations below\* and that the necessary steps are taken to preserve the conventional integrity of these raw materials.*

*\* Regulation (EC) No. 1829/2003 of the European Parliament and of the council of 22 September 2003 on genetically modified food and feed. Regulation (EC) No 1830/2003 of the European Parliament and of council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC. A standard form Grain Passport complying with the above statement must be used with every consignment and must show the applicable TASC registration number. Non-standard passports will not be accepted".*

#### **Radiation/Irradiation**

Sellers warrant that wheat has not been subjected to irradiation or a level of radioactivity in excess of that permitted by a regulatory body having the force of law in the United Kingdom or the European Community.

#### **Food Safety Act**

In accepting Buyer's Terms and Conditions of Trade, Sellers acknowledge and recognise their obligations relating to the provisions of the Food Safety Act 1990 and warrant that each delivery will conform to such obligations, including amendments applicable at the time of any transaction.

#### **Ergot**

All goods must be **totally** free of Ergot.

#### **Rodent Droppings**

All goods must be **totally** free of rodent droppings.

**Bio Solids (Human Waste/Sludge)**

By entering into a transaction Sellers are understood to warrant that crops grown on land that has had any form of Bio-solids (human waste or sludge) applied will be restricting the number of outlets for their grain. Currently there are numerous buyers whose terms do not permit the application of Bio-solids to land. If crops are from land that has had any form of human waste and/or sludge applied this **must** be notified to the Buyer prior to entering into any contract.

**Buyback Contracts**

All grain sold to Buyers on a Buyback contract will continue to be marketed through Buyers even if the produce does not meet the minimum specification of the original Buyback contract.

**Moisture**

Any changes to MAGB/NABIM moisture terms/allowances, and AIC contract terms, will be incorporated and be effective as at the date of transaction.

**Temperature**

Grain over 26°C on delivery may, at Buyers' absolute discretion, be subject to a cooling allowance or to rejection. Any grain found to be above the outside ambient temperature on delivery may be subject to rejection.

**Haulage**

Any Seller delivering on Buyers' behalf to a consumer or off-farm store must be verified under the AIC Code of Practice for Road Haulage or GTAS and must adhere to all haulage regulations, protocols and codes of practice in force at the time of delivery. Buyers make every effort to avoid capacity load charges. However all such charges, except where otherwise specified on the contract confirmation, will be passed on to Sellers as received from hauliers.

Loading times: Buyer will pass to Sellers any reasonable costs incurred by hauliers due to excessive loading times or on-farm delay.

**Overweight lorries**

Sellers must be aware of their legal responsibilities in despatching overweight lorries. Some end users may charge for removing excess weight and Sellers may resultantly be paid for only the legally allowed tonnage as per current legislation.

**Mycotoxins**

Sellers are made aware of their responsibilities under all current legislation particularly that relating to relating to mycotoxins and that the Seller has taken all reasonable steps to ensure grain does not exceed the maximum statutory levels.

**Variety**

Where buyer and seller agree that a specific variety or varieties be supplied against the contract this becomes a condition of the contract and forms part of the description of the goods. The Buyer reserves the right to reject the goods or, where the goods on first inspection the goods are accepted and subsequently enter the food chain, to claim damages where it can be shown that the seller has failed to supply the stated variety or varieties as per the contractual agreement.

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