



ADM Agriculture Ltd  
Lindsey House, Hemswell Cliff  
Gainsborough, Lincolnshire  
DN21 5TH

+44 (0) 1427 421200



By Appointment to  
Her Majesty The Queen  
Supplier of Quality Seeds  
ADM Agriculture Ltd  
Lincolnshire

## ADM AGRICULTURE LIMITED (GRAIN DIVISION) TERMS AND CONDITIONS OF PURCHASE

Effective 1st July 2020

Please find below the Terms and Conditions of Purchase of ADM Agriculture Ltd. (Grain Division) (hereinafter the “Buyer”) for the grain marketing year 2020/2021. These Terms and Conditions of Purchase are variously referred to as “Terms” or “the Terms”.

### 1. Terms and Conditions of Purchase

Other than where specified or amended elsewhere in this document, all Grains and Pulses are purchased by the Buyer under the terms and conditions of the AIC Grain/Pulses Contract No. 1/19 Contract, in the edition current at the date of transaction.

Other than where specified or amended elsewhere in this document, all Oilseed Rape and Linseed are purchased by the Buyer under the terms and conditions of FOSFA 26A Contract and the FOSFA 9A Contracts respectively, in the edition current at the date of transaction.

*[Copies of all of the aforementioned standard form contracts and the current version of the Combinable Crops Passport are available as downloads from our website (<https://adm-agri.co.uk/accreditations/>) or from us upon request.*

*The free to use ADM 365 system provides instant access to your account – details include all contracts, payments and seed/fertiliser orders.*

#### 1.1 End Receiver Terms

Purchases are concluded on the basis that these Terms and/or the terms of the End Receiver are expressly incorporated into any purchase. For the avoidance of doubt, the end receiver of the goods is the operator of the delivery installation where the goods are to be delivered. The delivery destination is available from the Buyer when bookings/collection instructions are issued. Copies of the Receiver’s Terms are available upon written request to the Buyer. Where there are any inconsistencies between the terms of the end receiver and the Buyer’s Terms then the end receiver’s terms prevail.

#### 1.2 Contract Confirmation

Each transaction will be confirmed by email or in writing 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 report alleged errors immediately shall render the Seller liable to the confirmed details. The Buyer will issue to the Seller a monthly statement showing all outstanding contracts held on the Sellers account. If the Seller has any query regarding any contract listed or not listed, they must contact the Buyer immediately to seek clarification of any issue.

### **1.3 Communication**

If the Seller needs to contact the Buyer concerning a particular contract, they must quote the contract reference number as this will allow the Buyer to answer any queries quickly and efficiently.

### **1.4 Dispute Resolution**

The Buyer draws the Sellers attention that they expressly incorporate AIC and FOSFA contracts as applicable which respectively incorporate a written agreement to determine disputes by arbitration in accordance with English procedural and substantive law.

### **1.5 Buyback Contracts**

In the event that goods sold on a Buyback Contract do not meet the minimum requirement of the original Buyback Contract, those goods shall be sold to the Buyer.

## **2. Delivery**

### **2.1 Period of Collection or Delivery (Contract Period)**

The Buyer shall have the right, by giving two working days' notice prior to the end of the original contract collection/delivery period, to extend the contract period by an additional period of 15 days and shall pay a premium of £0.50 per tonne to be added to the original contract price. Notice may be provided by email or in writing on a computer-generated form.

### **2.2 "As Available"**

Where goods are bought by the Buyer for delivery "*As Available*" the Seller must notify the Buyer in all circumstances, that the total quantity of contractual goods is available for collection and/or delivery and, where appropriate, advise the variety and quality of those goods. The Buyer is entitled to the remainder of the contractual delivery/collection period in which to affect clearance. Where this is not possible, the Buyer shall have the right to extend the delivery and/or collection period by 15 days, at no extra cost, to enable the contract to be delivered or collected.

### **2.3 Delivered Contracts**

Where contracts are bought on a delivered basis, the Buyer will not accept any liability for claims arising from delays to transport occasioned by any cause. The Buyer will endeavour to give the Seller two clear days' notice of delivery fixings, but where this cannot be given, it shall not entitle the Seller to refuse delivery or to deem that any breach of contract has occurred. All goods delivered to the Buyer's facilities, must have the variety and any reference numbers clearly stated on the delivery documentation and the Combinable Crops Passport. Any Seller delivering their



own crops on the Buyer's behalf must comply with the current TASC Code of Practice (available on request). Further sub-contracting of these deliveries can only take place with the written consent of the Buyer.

## 2.4 Haulage

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

The Buyer will pass to the Seller any reasonable costs incurred by hauliers due to excessive loading times or on-farm delay. The Buyer will make every effort to avoid capacity load charges, however, all such charges, except where specified in the contract, shall be passed as received from hauliers.

## 3. Quantity and Tolerances

3.1 At Clause 5 of the AIC 1/19 Contract ("Quantity"), the wording: *"Where the word 'about' is used in reference to quantity, the Seller shall have the option of delivering 5% or 15 tonnes (whichever is the lesser quantity) more or less than the contract 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 contract quantity at the contract price"***.

3.2 At Clause 2 of the FOSFA26A and FOSFA9A Contracts ("Tolerance"), the wording *"Sellers have the option of delivering 2% more or less or 5 tons more or less of the mean contract quantity, whichever is the greater"* is replaced by ***"The Buyer shall have the option to accept delivery of 2% or 5 tonnes (whichever is the lesser quantity) more or less of the mean contract quantity at the contract price."***

## 4. Quality

### 4.1 Sampling

Goods will be sampled in accordance with ISO24333 or an equivalent in-house procedure. Oilseeds will be sampled in accordance with ISO542:1990 or an equivalent in-house procedure.

### 4.2 Moisture

Any subsequent amendments to contract terms issued by Maltsters Association of Great Britain (MAGB), and/or National Association of British and Irish Millers (NABIM), and/or Agricultural Industries Confederations (AIC), including those relating to moisture and moisture allowances, will be incorporated and will become effective as at the date of the Contract.

### 4.3 Temperature

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



#### 4.4 Variety

Where the Buyer and Seller agree that a specific variety or varieties of goods are to be supplied against the contract, the variety of the goods 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 the Seller has failed to supply the stated variety or varieties as per the contractual agreement.

#### 4.5 Soft Wheat

All wheat bought as “soft” wheat must have a hardness testing below 40 on a quick test using the Single-Kernel Characterization System.

#### 4.6 Hard/Milling Wheat

All wheat bought as hard or bread making milling wheat must have a hardness testing above 45 on a quick test using the Single-Kernel Characterization System.

#### 4.7 Bread Making Wheat

No consignment of wheat may contain more than 2% by weight of admixture or screenings, with a combined weight of not more than 2%. Screenings are represented by the non-wheat tails over a 3.5mm slotted hole sieve and through a 2.0 mm slotted hole sieve. Admixture represents other miscellaneous botanical impurities, stone, straw, earth and other extraneous matter found in the remainder of the sample tested.

Each consignment must be completely free from ergot and mouldy, tainted or discoloured grains. Gluten must be present and have elasticity, and extensibility and be of satisfactory colour and quality, as determined by the end receiver of the goods. Any sign or presence of insect infestation, dead or alive, in any delivery consignment, may result in rejection. All wheat for use in bread making must be of satisfactory quality and fit for purpose for which the goods are supplied.

#### 4.8 Malting Barley

- Barley bought for malting, unless otherwise stated, is purchased on a maximum nitrogen content. Any nitrogen tolerance does not apply.
- Barley containing excessive broken/skinned grains and/or stones is liable to a claim or rejection.
- Only agrochemicals accepted by the British Beer & Pub Association (BBPA) may be used on or in the production of Malting Barley. Some buyers will not accept barley treated with Satisfar (Etrimphos). Malting Barley will not be accepted if grown on land treated with any form of bio-solids.
- Buyback allowance/premium notification: These will be notified by letter as soon as analysis is received from the end user.
- All Malting Barley is bought strictly on a maximum moisture content of 14.50%. Notwithstanding that maximum moisture content, it is the obligation of the Seller to disclose to the Buyer if the goods test above 14.50% moisture content. Sellers should not rely on barley in this instance being delivered to a receiver who will accept the goods, and although



some receivers will accept barley at an agreed allowance above 14.50% this level, there is no condition contained within the contract to this effect. It is the obligation of the Seller to ensure that the contract specification is adhered to in all respects.

- All Malting Barley must be of a bright, consistent sample, within the contract specification, and without disease, admixture of stones, excessive broken and/or skinned barley, and in every way without defect which renders it unfit for purpose.
- The Malting Association of Great Britain (MAGB) charges apply to some destinations that will charge a moisture allowance as per their terms up to 31 October 2019. Where these are calculated as a percentage, the allowance scale will be based on the sale price to the Receiver. Malting Barley delivered to a port, where quality is determined outside the contract specification, will be subject to those terms of the ultimate receiver at the Buyer's discretion.

#### **4.9 Oilseed Rape Labelling Requirements**

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 rapeseed 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 registration number. Non-standard passports will not be accepted.

#### **4.10 Ergot**

Nil Ergot allowed. All goods must be totally free of Ergot.

#### **4.11 Rodent Droppings**

Nil rat droppings allowed. All goods must be totally free of rodent droppings.

#### **4.12 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.

#### **4.13 Cleavers in Oilseed Rape and Pulses**

Oilseed Rape and Pulses bought under any contract may be delivered to a buyer who requires goods to be free of cleavers (Galium aparine). If any inclusion of cleavers is detected upon examination at the point of delivery, then the goods may be rejected. A Seller who does not declare an admixture of Cleavers at the time of contract, and whose goods are found to subsequently contain cleavers, will be liable for all costs from such a rejection.



#### 4.14 Radiation/Irradiation

Suppliers guarantee that goods have 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.

#### 4.15 Allergens

All goods supplied to ADM must be free from contamination of allergens not normally associated with the contracted goods. Groups of materials that may cause allergic reaction are not exhaustive and may include: nuts, sesame seeds, bakery products, crustacean, molluscs, fish, milk, eggs, celery, mustard, Lupin and soya.

#### 4.16 Benzo-Alpha Pyrene (BAP)

BAP content in the oil of the Goods as per EU regulation 835/2011 amending regulation 1881/2006 as well as per any subsequent Regulation or amendment thereto: 1) Sum of 4 PAH's (benzo(a)pyrene, benzo(a)anthracene, chrysene, benzo(b)fluoranthene) max 10ppb and 2) Benzo(a)pyrene max 2 ppb. Notwithstanding Section 14 of the Sale of Goods Act 1979 (as amended), if English law applies, and/or any other terms of the present Contract, express or implied, with regard to the quality, condition and fitness for purpose of the goods supplied hereunder, it is expressly agreed between the Seller and the Buyer that the Seller shall be fully liable to the Buyer for any and all costs incurred, directly or indirectly, in the event that the oil extracted from the seed supplied under the present Contract is found to contain BAP above the prescribed limits for poly aromatic hydrocarbons in foodstuff according to the above mentioned EU Regulation. Furthermore, Seller shall, upon ADM's request, provide satisfactory evidence of appropriate liability insurance with regard to any potential claim for damages arising under this clause.

#### 4.17 Green Seed

Chlorophyll content in the oil of the Goods basis 30 ppm max 50 ppm. Settlement shall be based on the following scale:

Chlorophyll (in the oil)	Allowance (based on contract price)
31-35 ppm	1%
36-40 ppm	2%
41-45 ppm	2,5%
46-50 ppm	3%

Goods with a content of Chlorophyll over 50 ppm in the oil can be rejected. In the event that the Goods have been discharged already, the allowance should be agreed amicably between ADM and the Seller. ADM reserves the right to claim this allowance within 60 days after discharge of the Goods.



#### 4.18 Mycotoxins

Sellers shall be aware of their responsibilities under all current EU Regulation and legislation, particularly that relating to mycotoxins and all aspects of food safety. The Seller must take all reasonable steps to ensure grain does not exceed the maximum declared levels. Sellers shall be aware of the specific end receiver's mycotoxin requirements when entering into a contract where goods will be supplied to that end receiver. The Buyer is able to test Sellers' grain for mycotoxin levels for which there is a charge of £25.00 + VAT (£85.00 + VAT for Malting Barley) per test. The Buyer will make these test results available to the Seller, but it is important to note that these results are only a guide to the level of DON in the samples tested. There may also be a requirement from the end receiver to test for Zearalenone (ZON) or Ochratoxin A (OTA), which the Buyer will communicate to the Seller as and when required. All deliveries of grain for human consumption must meet the EU maximum permissible levels of Fusarium mycotoxins (e.g. DON) as laid down in EU Commission regulation no. 856/2005, or any amendment thereof. Full details are available on Buyer's website at <https://adm-agri.co.uk/>

Grain bought for specific purposes, e.g., incorporation into bread, pastries, biscuits, cereal snacks, breakfast cereals, must be within the maximum permitted levels of DON, as laid down for that purpose.

#### 4.19 Amendment to Time Limits and Latent Defects

(i) Claims

Subject to sub-clause (iii) below, the Buyer will endeavor to confirm claims in accordance with Clause 22(b) of AIC 1/19 but should any time limit not be adhered to it will not be grounds for any breach of contract.

(ii) Oilseed Rape

The goods may be subject to analysis including, but not limited to, Erucic Acid, Glucosinates, Free Fatty Acid and Benzo-Alpha Pyrene. It is hereby agreed between Buyer and Seller that defects which are discovered by this analysis are not apparent, discovered or discoverable by the exercise of reasonable due diligence at the point of delivery to the Buyer (any such defect and/or deficiency hereafter "a Latent Defect") and are subject to time limits as per sub-clause (iii) (c) below.

(iii) Latent Defects

Notwithstanding any provision of AIC 1/19 or FOSFA26A or FOSFA9A or of any terms to the contrary, the following time limits shall apply to any claim for any remedy, including for the avoidance of doubt, the rejection of goods that arises from any Latent Defect (as described above). In respect of any claim arising from a Latent Defect:

- (a) the time by which the Buyer is to confirm claims for the purposes of clause 22(b) and 22(c) of AIC 1/19, is hereby amended so that the Buyer shall confirm claims within 120 consecutive days following the discovery of the Latent Defect giving rise to the claim; and



(b) the time limit for claiming arbitration in clause 26 of AIC 1/19 is amended so as to provide that arbitration shall be commenced within 120 consecutive days following the discovery of a Latent Defect.

(c) In respect of any claim arising from a Latent Defect for Oilseed Rape and Linseed, the time limit for passing any claim is 120 consecutive days following the discovery of the Latent Defect giving rise to the claim. The time limit for claiming arbitration in respect of Latent Defect in Oilseeds is agreed so as to provide that arbitration shall be commenced within 120 consecutive days following the discovery of the Latent Defect.

#### **4.20 Rejection**

Where on the terms of the contract or at law the Buyer has a right to reject the goods, the Buyer shall not by reason of having sieved, dressed, sorted or otherwise processed the goods, be deemed to have accepted the goods, or otherwise to have lost the right to reject the goods, whether under section 35 of the Sale of Goods Act 1979 (or any statutory replacement or modification thereof), or otherwise.

#### **4.21 Statutory Rights**

The remedies afforded to the Buyer in clauses 19 and 22 of AIC 1/19 are additional to any statutory remedy that may be available to the Buyer and nothing in those clauses or in this clause shall be interpreted so as to diminish or extinguish any statutory remedy that exists in favour of the Buyer.

### **5 Trade Assurance and Other Requirements**

#### **5.1 Farm Assurance**

Unless stated at the time of contract, all transactions (unless specifically shown on the contract confirmation, or where a Seller has informed the Buyer that they are not farm assured), will be deemed to be accredited by an audited farm assurance scheme which adopts Red Tractor Standards or an equivalent recognised by AIC. The Buyer requires to be informed of the Seller's assurance scheme and scheme number, or any amendment to the scheme and/or number if these have not previously been made known.

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

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

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

We endorse the Red Tractor Farm Assurance Standards, which state that all farmers should take representative samples as their grain is put into store. We are able to supply sample bags and to collect samples from the Seller's identified locations. We will continue to offer our sampling service for Sellers who are unable to provide samples. However, we are unable to sample grain stored in enclosed confined spaces e.g. bins.

By taking samples or making analyses, we accept no liability for analytical results. We continue to invest in the latest laboratory equipment and the most up to date technology, however, our analytical results and services, which are provided free of charge, are only a guide to quality, and



are not to be taken as being contractually definitive or binding. Contractual determination of the quality and condition of the goods will be made at the point of delivery.

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

We subscribe to the Universal Feed Assurance Scheme's Compound Feeds Code of Practice 2012, including Appendix 7 thereto, 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.

#### **5.5 Food Safety Act**

In accepting the Buyer's Terms, Sellers acknowledge and recognise their obligations relating to the provisions of the Food Safety Act 1990 or any subsequent amendment and any legislation or regulation, including any EU Regulation pertaining to food safety, and confirm that each delivery will conform to those obligations.

#### **5.6 Chlorpropham (CIPC)**

CIPC is widely used by potato growers as a sprout suppressant and it is applied as a fog during the storage period contaminating the fabric of the store including concrete floors, walls and roof. It cannot be completely removed, even if the store is extensively cleaned, and can persist for several years. Cereals stored in these stores can subsequently show poor germination and levels of CIPC above legal limits.

It is the supplier's responsibility to ensure the Red Tractor Assurance Standards are adhered to and goods supplied shall not have been stored in facilities treated with CIPC.

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

By entering into a transaction, Sellers are understood to be aware 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 goods are grown 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. Sellers may be liable for all additional costs, including, but not limited to haulage, for the delivery of goods to a different end receiver if Sellers fail to notify the Buyer at the time of contract.

#### **5.8 Amino A+ or similarly derived products**

AminoA+ is a bio stimulant derived from hydrolysed protein. The Seller guarantees that raw materials destined for food use shall not have Amino A+ or any similarly derived product applied to them during their production.

#### **5.9 Ethical Trading Initiative Base Code**



The Buyer conforms to the Ethical Trading Initiative (ETI) base code. Further details can be found on our website.

#### **5.10 Modern Slavery Act 2015**

The Modern Slavery Act 2015 came into force in October 2015, which encompasses human trafficking, slavery, servitude and forced or compulsory labour.

Buyers are committed to the rights and well-being of the people who work for us and our suppliers. As such, Buyers are committed to taking the appropriate steps to ensure that everyone who works for us benefits from a working environment in which their fundamental rights and freedoms are respected. Our company policy promotes freedom of association and clearly defines that forced labour is unacceptable. We ensure all of our employees are legally entitled to work, registered to pay the appropriate tax and National Insurance contributions and that relevant legislation relating to health and safety, Working Time Regulations, pension enrolment and minimum wage are followed.

As a valued trading partner our expectation and requirement is that your business operates and is committed to the same ethical standards as we are, ensuring the rights and well-being of your own employees and those within your own direct supply chain. We recognise that the issue of slavery and human trafficking is a global issue and often difficult to detect; therefore, open communication with our supply chain is critical to ensure that any issues are detected and resolved. We welcome and encourage our trading partners to discuss any queries or concerns you may have relating to this legislation. If you have any questions or require any guidance relating to slavery or human trafficking, then please contact our Human Resource Department.

We take this opportunity to thank you for your continued and valued custom.

With best wishes for the forthcoming harvest.

Graham Atkinson  
Managing Director

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