

## Novo Farina Ltd - Terms and Conditions of Sale

### 1. Definitions

In these Conditions the following expressions shall have the following meanings:

- 1.1 "Contract" means the contract between the Seller and the Customer for the supply of Goods according to these Conditions;
- 1.2 "Customer" means any person or company receiving a quotation from/or placing an order with the Seller;
- 1.3 "Goods" means all and every item of goods or part of it supplied by the Seller;
- 1.4 "Seller" means Novo Farina Limited

### 2. General

- 2.1 These conditions of sale apply to any contract of sale of our products to our customers. No additions or modifications to terms or conditions inconsistent with these Conditions shall be binding upon the Seller unless agreed in writing by an authorised representative of the Seller.
- 2.2 The Customer shall be responsible for complying with any applicable legislation or regulations (of the United Kingdom or any other country) governing the export and import of the Goods into the country of destination (and any other country through which the Goods pass in transit) and for the payment of any duties thereon and without prejudice to the above, obtaining all necessary licences, clearances and consents. The Customer shall fully indemnify the Seller against fines, penalties, costs, claims, damages, losses and the expenses suffered by the Seller as a result of the Customer failing to comply with this Condition 2.2.

### 3. Quotations and Orders

- 3.1 No order submitted by the Customer shall be accepted by the Seller until the Seller confirms the order in writing or commences work on the order.
- 3.2 The Seller reserves the right to refuse to accept any order based upon a quotation unless the quotation is stated to be open for a defined period of time and the quotation has not been withdrawn in that period.
- 3.3 No order which has been accepted by the seller can be cancelled, varied or suspended by the Customer except with the prior written agreement of the Seller. The Customer shall indemnify the Seller in full against all losses incurred by the Seller as a result of such cancellation, suspension or variation.
- 3.4 The Seller reserves the right to increase the price quoted per unit for the Goods at any time prior to delivery if the Customer places an order for less than the number of units set out in the relevant quotation.

### 4. Price and payment terms

- 4.1 Subject to condition 3.4 above, the price of the Goods shall be the price set out in the order confirmation or any other written agreement entered into by the Seller with the Customer and shall be exclusive of any taxes and duties unless otherwise stated. The price excludes the cost of the delivery unless otherwise specified in the order confirmation or otherwise agreed in writing between the parties.
- 4.2 Unless otherwise agreed in writing, payment in full (without any deduction by way of set off or counter claim) for the Goods shall be due and payable in the currency of the price specified in the order confirmation by 30 days from the date of the invoice.
- 4.3 All prices may be increased at any time to take account of for example, market conditions, foreign exchange fluctuation, currency regulation, significant increase in the costs of labour, materials or other costs of manufacture, change in delivery dates, location, quantities or specifications for the Goods which is requested by the Customer or any delay caused by any specification or other instructions of the Customer or failure of the Customer to give the Seller adequate information or instructions which may occur or are anticipated to occur between the date of quotation of the price and the date of delivery.
- 4.4 If the Customer fails to make payment in accordance with Condition 4.2 then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
  - 4.4.1 withhold or suspend any further deliveries of the Goods to the Customer or cancel any pending order and/or the Contract;
  - 4.4.2 charge the Customer interest at 4% above the Barclays Bank PLC base lending rate for the time being (both before and after any judgment) on any overdue payments until repaid in full; and
  - 4.4.3 recover from the Customer all direct expenses reasonably incurred by the Seller in the collection of any overdue sums.

### 5. Title

- 5.1 Legal ownership of the Goods is to remain vested in the Seller until the Goods have been paid for in full, and until full payment has been received by the Seller under any other contract with the Customer for which payment is outstanding.
- 5.2 If the Customer obtains possession of the Goods prior to such payment, the Customer shall hold the Goods as bailee and fiduciary agent for the Seller and shall keep the Goods properly stored, protected and insured and in a separate and identifiable form as the Seller's property.
- 5.3 Until title in the Goods passed to the Customer, the Seller shall be entitled at any time to require the Customer to deliver up the Goods to the Seller and, if the Seller fails to do so immediately, to enter any of the Customer's or any third party's premises where the Goods are stored and repossess the Goods with or without notice. The Seller shall have the right to sell the Goods once they have been repossessed under this Condition 5.
- 5.4 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness of any of the Goods which remain the property of the Seller, but if the Customer does so all monies owed by the Customer to the Seller shall, without prejudice to any other right or remedy of the Seller, immediately become due and payable.

### 6. Force Majeure

- 6.1 The Seller shall have no liability for any expenses, losses or damage caused by delay or default in performance of any obligation caused by any matter(s) beyond the reasonable control of the Seller which, without prejudice to the above, shall include but not be limited to: failure of machinery, failure of raw material or supply of raw material, Act of God, war, terrorism, strikes, accidents, lock-outs, trade disputes, fire, flood or difficulty in obtaining workmen, materials or transport ("Force Majeure Event"). If a Force Majeure Event prevents delivery of the Goods within 3 months from the estimated delivery date the Seller may cancel the order on giving written notice to the Customer without liability to compensate the Customer for any loss or damage.

### 7. Risk, Carriage, Packaging and Storage

- 7.1 The Seller shall take all reasonable steps to perform its obligations and deliver within the time specified in the quotation, but such times are estimate only. The Seller shall not be liable for any expenses losses or damages caused by late performance or delay in delivery and delays shall not entitle the Customer to rescind the Contract.
- 7.2 Delivery shall be made to the place specified in the quotation. Unless otherwise specified in the quotation delivery shall either be at:
  - 7.2.1 the Seller's premises, in which case delivery shall be deemed to have occurred when the Goods are loaded on to the vehicle of the Buyer;
  - 7.2.2 the Customer's premises or other premises on mainland Great Britain, in which case delivery shall be deemed to have occurred when the Goods are unloaded;
  - 7.2.3 In the case of Goods to be exported, delivery will be deemed to have occurred when the risk transfers to the Customer as documented in Incoterms 2010 for the agreed delivery term and delivery point.
- 7.3 Risk shall pass to the Customer on delivery in accordance with Condition 7.2 above.

- 7.4 Where the Customer does not provide any specific instructions about the manner in which the Goods are to be delivered or the place of delivery, the Seller reserves the right in its absolute discretion to choose the means of carriage to the Customer and to direct the Goods to the Customer's last known business address. Any such specific instructions must be given to the Seller at the time of submitting an order and where such specific instructions are given the Seller reserves the right to charge to the Customer additional costs for delivery.
- 7.5 The Seller reserves the right to make part deliveries and to submit invoices for Goods supplied as part of an order.
- 7.6 Any crates, cases, returnable pallets, stillages or skids supplied shall remain the property of the Seller and shall be returned in good condition by the Customer at the Customer's expense. The seller shall be entitled to charge at its then standard rates for any packaging returned damaged, unusable or not returned.
- 7.7 Where the Seller has agreed to deliver the Goods, the Seller shall be liable for loss or damage to the Goods which occurs before risk has passed to the Customer, but the Seller's liability shall be limited to crediting the Customer with the invoice value of any Goods lost or damaged or to replacement, whichever the Seller shall consider the most appropriate. Any claim in respect of Goods lost or damaged in transit must be notified to the Seller in writing within 7 days of delivery of the Goods.

### 8. Health and Safety

- 8.1 For the safety of Customers' employees, agents or otherwise, the Seller advises the Customer that it should take appropriate precautions in respect of the following risks associated with handling the Goods:
  - 8.1.1 dust explosion; and
  - 8.1.2 respiratory irritation.

### 9. Terms and Representations

- 9.1 The Goods shall be in accordance with the agreed specifications and description set out in the quotation. No other specifications, description, written or oral representation, correspondence, statement or promotional or sales material shall form part of or be incorporated into the Contract. The Customer warrants that it has examined the agreed specifications for and/or sample of the Goods prior to the Contract.
- 9.2 The Seller agrees to replace or (at its discretion) issue a credit note in respect of Goods which are found to be defective and which written notice is given to the Seller within 3 months from the date of delivery provided that each of the following are satisfied:
  - 9.2.1 the Goods have only been subject to reasonable and normal use;
  - 9.2.2 any Goods or parts of Goods replaced shall become the property of the Seller;
  - 9.2.3 if the Seller so requires, the Goods are returned to the Seller's premises at the Customer's expense; and
  - 9.2.4 the defect has not arisen from any act or omission of the Customer or any other third party.
- 9.3 Save as provided by law under no circumstances shall the Seller be liable in contract, tort (including negligence or breach of statutory duty) or otherwise however caused for any loss or profit, business, contracts, revenues or anticipated savings or for any special, indirect consequential damage of any nature whatsoever.
- 9.4 Save as provided by law to the extent that the Seller is held legally liable to the Customer for any breach of contract or tort or other act, default, omission or statement of the Seller in respect of the Contract the Seller's liability for the same shall not exceed £3,000,000.
- 9.5 If any exclusion or limitation of liability or any other provision contained in the Contract is held invalid under any applicable statute or rule of law, it shall to that extent be deemed omitted, but if the Seller thereby becomes liable for any liability which would otherwise have been excluded or limited, such liability shall be subject to the other exclusions limitations or provisions set out in Condition 9.
- 9.6 Where the Contract is "international supply contract" within the terms of Section 26 of the Unfair Contract Terms Act 1977 then the Seller excludes all liability to the Customer whether under contract, tort (including negligence or breach of statutory duty) or otherwise save as set out in Conditions 9.3 and 9.4.

### 10. Termination

- 10.1 Without prejudice to any other rights or remedies that the Seller may have, the Seller shall have the right on reasonable notice to terminate immediately at any time all or any of its contracts with the Customer and recover damages and any loss of sale of the Goods if the Customer is declared bankrupt, enters into liquidation, suffers an administrative receiver or receiver to be appointed for any or all of its assets, suffers an administration order to be made against it, fails to pay any sum due under the Contract of if the Customer is in the breach of any other term of the Contract.

### 11. Miscellaneous

- 11.1 The relationship of the Seller and the Customer is that of an independent contractor and does not continue a partnership, agency or contract of employment and neither party will have the right to bind the other.
- 11.2 Any notice or demand to be given to either party under the Contract shall be in writing and shall be given or sent by registered or recorded delivery post to the party for whom it is intended at such party's registered or main office or last known address.
- 11.3 The Customer shall keep and produce on the Seller's request, all documentation relating to the Goods supplied to it, including such documents necessary for tracing the Goods as well as all parts thereof as required by any applicable laws and in any event for a minimum period of 7 years following delivery.
- 11.4 If any Condition or part thereof is or becomes invalid, the validity of the remaining provisions shall remain unaffected. The parties shall substitute for the invalid provision a new provision which serves the economic purpose of the invalid provision to the furthest possible extent.
- 11.5 No delay or waiver by the Seller in exercising its rights under or in connection with these Conditions on one or more occasions shall be relied upon on subsequent occasions or shall limit or restrict the future exercise or enforceability of the Seller's rights in question.
- 11.6 The Customer shall not have the right to assign or otherwise transfer any of its rights under the Contract. The Seller shall have the right to sub-contract the performance of all or part of any of its obligations under the Contract.
- 11.7 The Customer acknowledges that all information relating to the Seller's business which is not public knowledge, is confidential. The Customer agrees not to disclose such confidential information to any other person, nor to use it for any other purpose than fulfilling an order. The Customer shall not use the name and trademarks of the Seller for advertising, promotional or other purposes without the written consent of the Seller.
- 11.8 The Contract comprises the entire agreement between the parties and supersedes all previous oral and written agreements relating to the supply of Goods. Each party acknowledges that in entering into the Contract it has not relied on any representations, agreement, warranties or other assurances (other than those repeated in the Contract) and waives all rights and remedies which but for this Condition 11.1 would be available to it.

### 12. Governing Law and Jurisdiction

- 12.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.