

FRAM FARMERS LIMITED
CROP MARKETING TERMS OF PURCHASE
30 July 2019



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1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Crop Marketing Terms of Purchase (the “**Terms**”) “**Transaction**” means an agreement between a Marketing Member and Fram Farmers for the purchase of goods in accordance with these Terms. All terms not defined herein shall have the meaning given to them in the Fram Farmers Membership Terms or AIC 1/19 or the relevant FOSFA Contracts (defined below), as the context may require.
- 1.2 In the event that the UK leaves the European Union without a withdrawal agreement in place (a “**No-Deal Brexit**”), references to any EU Regulation shall be deemed to refer to the relevant UK statutory instrument issued to retain any such EU Regulation following a No-Deal Brexit.
- 1.3 The Terms do not amend or replace the Marketing Schemes Contract Agreement, as may be amended from time to time (the “**Pool Terms**”). In the event of any conflict between the Terms and the Pool Terms, the Pool Terms shall prevail. In the event of any conflict between the Terms and the Membership Terms, the Terms shall prevail.

2. TERMS AND CONDITIONS OF PURCHASE

- 2.1 The Terms apply to all Transactions between Fram Farmers Limited (“**Fram Farmers**” or “the **Buyer**”) and a Marketing Member (the “**Seller**”) for the Buyer’s purchase of goods (“**Contract Goods**”) set out below.
- 2.2 Subject to the amendments set out in the Terms, Fram Farmers buys grains and pulses strictly and only under the terms and conditions of the AIC Grain/Pulses Contract No. 1/19 (the “**AIC 1/19 Contract**”), or any amendment to that contract issued prior to the date of a Transaction.
- 2.3 Subject to the amendments set out in the Terms, Fram Farmers buys oilseed rape only under the FOSFA 26A Contract and linseed only under the FOSFA 9A Contract (together, the “**FOSFA Contracts**”), including any amendments to those FOSFA Contracts issued prior to the date of a Transaction.
- 2.4 Amendments to the terms of the AIC 1/19 Contract and the FOSFA Contracts are set out below.

3. QUANTITY

- 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 contractual quantity at the contract price”

shall be deleted and replaced by the following

“Fram Farmers 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”.

3.2 At Clause 2 of the FOSFA 26A and FOSFA 9A 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”

shall be deleted and replaced by the following

“Fram Farmers 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 At Clause 11(a) of the AIC 1/19 Contract (“**Quality**”), the words

“and from objectionable smell and taste”

shall be deleted and replaced by the following

“and free from objectionable smell and taste, defects and/or damage, including, without limitation any hazardous, dangerous, poisonous or harmful substance or conditions, or genetic characteristics that may directly or indirectly cause discrepancies or defects in any subsequent product made or grown with or from the goods”.

5. PERIOD OF DELIVERY (CONTRACT PERIOD)

5.1 Fram Farmers 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 15 days, pro rata, and shall pay a flat rate premium of £0.50 per tonne to the original contract price.

5.2 Where Contract Goods are bought by Fram Farmers specifically “*As available*”, it is the responsibility of the Seller to notify Fram Farmers in all circumstances, that the

total quantity of the Contract Goods is available for collection and/or delivery and, where appropriate, advise the variety and quality of those Contract Goods. Fram Farmers is entitled to the remainder of the contractual delivery/collection period in which to effect clearance. Where this is not possible, Fram Farmers shall have the right to extend the delivery and/or collection period by 15 days, to enable the Contract Goods to be delivered or collected (but for the avoidance of doubt shall not pay a flat rate premium of £0.50 per tonne to the original contract price in respect of such extension).

6. DELIVERED CONTRACTS

6.1 Where Contract Goods are bought on a delivered basis, Fram Farmers will not accept any liability for claims arising from delays to transport, howsoever occurring. Fram Farmers will endeavour to give the Seller two clear days' notice of delivery fixings, but where this cannot be given, this shall not entitle the Seller to fail to deliver and shall not amount to a breach of contract. All Contract Goods delivered to any facilities at the direction of Fram Farmers must have the variety and any reference numbers clearly stated on the delivery documentation and on any Combinable Crops Passport. Any Seller delivering its own crops on Fram Farmers' behalf must comply with the current TASC Code of Practice and any relevant instructions issued by Fram Farmers. Further sub-contracting of such deliveries can only take place with the written consent of Fram Farmers.

7. END RECEIVER TERMS

7.1 Purchases are concluded on the basis that, the Seller delivers the Contract Goods in accordance with the intake terms of the end receiver (if any), which are hereby incorporated into the Terms as at the date of the Terms. For the avoidance of doubt, the end receiver of the Contract Goods is the operator of the delivery installation where the Contract Goods are to be delivered. The delivery destination is available from Fram Farmers when bookings/collection instructions are issued. In the event of any conflict between the Terms and the end-receiver's intake terms, the end-receiver's intake terms shall prevail.

8. AMENDMENT OF TIME LIMITS

8.1 Claims

8.1.1 Subject to clause 8.3 below, Fram Farmers will endeavour to confirm claims in accordance with Clause 22(b) of AIC 1/19 but should any time limit not be adhered to, this will not be a breach of contract and shall not preclude Fram Farmers from making and maintaining any claim.

8.2 Oilseed Rape

8.2.1 For oilseed rape, first analysis under Clause 11 of the FOSFA 26A contract is undertaken by the end receiver of the Contract Goods, a FOSFA analyst, or by Fram Farmers' preferred TASCC accredited laboratory, at Fram Farmers' discretion. Analysis for moisture, admixture and oil content will be passed to the Seller within 28 days of the arrival of the Contract Goods at their ultimate destination.

8.2.2 The Contract Goods may be subject to analysis including, but not limited to, Erucic Acid, Glucosinalates, Free Fatty Acid and Benzo-Alpha Pyrene. It is hereby agreed between Fram Farmers 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 Fram Farmers (any such defect and/or deficiency hereafter a "**Latent Defect**"), and are subject to time limits as per Clause 8.3.1.2 below.

8.3 Latent Defects

8.3.1 Notwithstanding any contrary provision or any provision of the AIC 1/19 Contract or the FOSFA Contracts in this contract, the following time limits shall apply to any claim for any remedy, including for the avoidance of doubt, the rejection of Contract Goods that arises from any Latent Defect. In respect of any claim arising from a Latent Defect:

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

8.3.1.2 the time limit for claiming arbitration in clause 26 of AIC 1/19 Contract is amended so as to provide that arbitration shall be commenced

within 120 consecutive days following the discovery of the Latent Defect.

8.3.1.3 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.

8.4 Rejection

8.4.1 Where Fram Farmers has a right to reject the Contract Goods (whether such right arises under the terms of the contract or at law (including but not limited to the Sale of Goods Act 1979)), Fram Farmers shall not by reason of having sieved, dressed, sorted or otherwise processed the Contract Goods, be deemed to have accepted the Contract 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.

8.5 Statutory Rights

8.5.1 The remedies afforded to Fram Farmers pursuant to the Terms or any Transaction are additional to any statutory remedy that may be available to Fram Farmers and nothing in the Terms or any Transaction shall be interpreted so as to diminish or extinguish any statutory remedy that exists in favour of Fram Farmers.

9. DISPUTE RESOLUTION

9.1 The Seller acknowledges and understands that clause 2 of the Terms expressly incorporates the AIC 1/19 Contract and the FOSFA Contracts (as applicable and as amended herein), both of which incorporate a written agreement to determine disputes by arbitration.

10. CONTRACT CONFIRMATION

10.1 Each Transaction (whether originated by telephone or in writing) will be confirmed by email or in writing (a “**Contract Confirmation**”). In the event that Fram Farmers and

the Seller enter into a buyback contract (a “Buyback Contract”), this will have Buyback terms attached. Fram Farmers will prepare the Contract Confirmation, which shall be binding on the Seller and Fram Farmers unless the Seller notifies Fram Farmers of any requested amendments to the terms of the Contract Confirmation without delay following its receipt. Fram Farmers may from time to time issue to the Seller a statement showing all outstanding contracts held on the Seller’s account (such statement being conclusive unless the Seller notifies Fram Farmers of any alleged error without delay following its receipt).

11. COMMUNICATION

- 11.1 If the Seller needs to contact Fram Farmers concerning a particular contract, they must quote their Member Code as this will allow Fram Farmers to answer any queries quickly and efficiently.

12. FARM ASSURANCE

- 12.1 All Transactions (unless specifically shown on the Contract Confirmation, or where a Seller has informed Fram Farmers that they are not farm assured), will be deemed to be accredited by an audited farm assurance scheme which adopts Red Tractor Farm Assurance Standards (found at <https://assurance.redtractor.org.uk>) or an equivalent recognised by AIC. The Seller is required to inform Fram Farmers of its assurance scheme and scheme number, or any amendment to the scheme and/or number if these have not previously been made known.

13. RENEWABLE ENERGY DIRECTIVE (RED)

- 13.1 Goods destined for the bio-fuels industry and/or good that may be processed in bio-fuels, including wheat all oilseeds must be compliant with Directive 2009/28/EC (the Renewable Energy Directive) (as amended) in all respects.

14. FARM SAMPLING/COLLECTIONS

- 14.1 We endorse the Red Tractor Farm Assurance Standards set out in clause 12 above, 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.

14.2 We accept no liability for the analytical results of any samples, which shall not to be taken as being contractually definitive or binding. Contractual determination of the quality and condition of the Contract Goods will be made at the point of delivery.

15. DUSTS

15.1 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.

16. PROHIBITED SUBSTANCES IN HORSE FEED

16.1 All Contract Goods supplied for use in the manufacture of equine feeds shall comply with the Universal Feed Assurance Scheme's compound Feeds guidance, as may be amended from time to time and the British Equestrian Trade Association's naturally occurring prohibited substances ("NOPS") code (which addresses the control of NOPS in equine feeds) in all respects, and the Seller warrants that all Contract Goods to be supplied to Fram Farmers for such use do so comply. Without prejudice to any other remedy that Fram Farmers may have, should Fram Farmers notify the Seller of the presence of NOPS in any Contract Goods supplied, the Seller shall use its best endeavours to cooperate with Fram Farmers to identify the source(s) of the NOPS and thereafter to ensure that further supply is prevented.

17. RADIATION/IRRADIATION

17.1 The Seller guarantees that Contract Goods sold to Fram Farmers pursuant to the Terms 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 Union.

18. FOOD SAFETY ACT

18.1 By accepting the Terms, the Seller acknowledges and recognises its 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 confirms that each delivery will conform to those obligations.

19. MYCOTOXINS

19.1 The Seller shall comply with its responsibilities under all current EU Regulations and legislation relating to mycotoxins. The Seller must take all reasonable steps to ensure grain does not exceed the maximum declared levels. Seller shall be deemed aware of

the specific end receiver's mycotoxin requirements when entering into a contract where goods will be supplied to that end receiver. Fram Farmers is able to test Seller's grain for mycotoxin levels, for which Fram Farmers will charge to the Seller a fee (plus VAT) per test, and the Seller agrees to pay such fee (plus VAT) to Fram Farmers. Fram Farmers 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 deoxynivalenol (DON) in the samples tested and Fram Farmers accepts no liability for the related analytical results in accordance with clause 14.2. There may also be a requirement from the end receiver to test for Zearalenone (ZON) or Ochratoxin A (OTA), which Fram Farmers 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).

- 19.2 Grain bought for specified 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.

20. CHLORPROPHAM (CIPC)

- 20.1 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.
- 20.2 It is the Seller's responsibility to ensure the Red Tractor Assurance Standards are adhered to and goods supplied shall not have been stored in facilities treated with, or affected by, CIPC.

21. ERGOT

- 21.1 All goods must be totally free of Ergot.

22. RODENT DROPPINGS

- 22.1 All goods must be totally free of rodent droppings.

23. BIO SOLIDS (HUMAN WASTE/SLUDGE)

- 23.1 By entering into a Transaction, the Seller is 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 its 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 Fram Farmers prior to entering into any contract. The Seller shall be liable for all additional losses, expenses and costs, including, without limiting the foregoing, haulage for delivery of goods to a different end receiver, if it fails to notify Fram Farmers prior to the agreement of a Transaction.

24. AMINO A+ OR SIMILARLY DERIVED PRODUCTS

24.1 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.

25. BUYBACK CONTRACTS

25.1 In the event that Contract Goods sold on a Buyback Contract do not meet the minimum requirement of the original Buyback Contract, those Contract Goods shall be sold to Fram Farmers.

26. AMENDMENT TO STANDARD TERMS

26.1 Any subsequent amendments to the AIC 1/19 Contract and the FOSFA Contracts including those relating to moisture and moisture allowances, will be incorporated and will become effective as at the date of the Transaction following any such amendment.

26.2 The moisture allowances issued by Maltsters Association of Great Britain (MAGB), and/or National Association of British and Irish Millers (NABIM) as effective from time to time shall apply in the form effective as at the date of the relevant Transaction.

27. TEMPERATURE

27.1 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.

28. HAULAGE

28.1 The Seller must comply with its legal obligations with respect to the weight of loaded lorries. Some end users may charge for tipping off excess weight. The Seller shall

only be entitled to receive the price for the legally allowed tonnage as per the legislation applicable at the time of delivery.

28.2 The Seller shall indemnify Fram Farmers against all costs charged by hauliers (including capacity load charges) due to excessive loading times or on-farm delay.

29. VARIETY

29.1 Where Fram Farmers and the Seller agree that a specific variety or varieties of goods are to be supplied under the contract, the variety shall form part of the description of the Contract Goods and shall be a condition of the Transaction. Fram Farmers reserves the right to reject the Contract Goods or, where the Contract Goods on first inspection are accepted and subsequently enter the food chain, to claim damages, where the Seller has failed to supply the agreed variety or varieties.

30. SPECIFIC TERMS RELATING TO WHEAT

ALL WHEAT

30.1 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.

30.2 Each consignment must be completely free from ergot and mouldy, tainted or discoloured grains. Fram Farmers shall be entitled to reject any delivery consignment that contains any sign or presence of insect infestation, dead or alive

SOFT WHEAT

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

HARD/MILLING WHEAT

30.4 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.

BREAD MAKING WHEAT

30.5 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 Contract Goods.

31. SPECIFIC TERMS RELATING TO MALTING BARLEY

31.1 Barley bought for malting, unless otherwise stated, is purchased on a maximum nitrogen content. No nitrogen tolerance applies.

31.2 Fram Farmers reserves the right to reject, or claim damages in respect of, barley containing excessive broken/skinned grains and/or stones.

31.3 Only agrochemicals accepted by the British Beer & Pub Association (BBPA) for use on barley, as at the date of the contract, may be used on or in the production of Malting Barley. Fram Farmers reserves the right to reject barley treated with Satisfar (Etrimphos) at its absolute discretion. Malting Barley will not be accepted if grown on land treated with any form of bio-solids.

31.4 In the event that we enter into a Buyback Contract, the relevant buyback allowance/premium notification will be notified by letter promptly following receipt from the end user.

31.5 All malting barley is bought strictly on a maximum moisture content of 14.50% (the "**Maximum Moisture Content**"). The Seller must disclose to Fram Farmers if malting barley tests above the Maximum Moisture Content. Fram Farmers reserves the right to reject any malting barley that exceeds the Maximum Moisture Content. It is the obligation of the Seller to ensure that the contract specification is adhered to in all respects.

31.6 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.

31.7 The Malting Association of Great Britain (MAGB) charges apply to some destinations that will charge a moisture allowance as per the MAGB terms up to 31 October 2019. Where these are calculated as a percentage, the allowance scale applicable to the Transaction will be based on the sale price to the end receiver.

32. CLEAVERS IN OILSEED RAPE AND PULSES

32.1 Fram Farmers reserves the right to reject Contract Goods upon the detection of cleavers (Calcium aparine) following examination at the point of delivery. A Seller who does not declare an admixture of cleavers prior to the delivery date, and whose goods are found to subsequently contain cleavers, will be liable for all costs from such a rejection.

33. MODERN SLAVERY ACT 2015

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

33.2 Fram Farmers is committed to the rights and well-being of the people who work for us and our suppliers. 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. For more information please see the modern slavery statement on our Website.

34. GENERAL DATA PROTECTION REGULATION (GDPR) STATEMENT

34.1 Fram Farmers is committed to upholding its legal obligations in line with the General Data Protection Regulation (GDPR) (EU) 2016/679. By entering into the Terms and providing personal information to Fram Farmers, the Seller acknowledges and consents to the collection, use, distribution and maintenance of its personal information in the manner described in the Fram Farmers GDPR and privacy policy found at www.framfarmers.co.uk/privacy.