



## AAK INTERNATIONAL General Terms & Conditions of Sale

### 1. SCOPE AND APPLICATION

1.1 These General Terms and Conditions of Sale ("Conditions") shall apply to all sales and deliveries of goods ("Product") by AAK INTERNATIONAL ("AAK") to the exclusion of any general or specific conditions or terms of the buyer. These Conditions shall cancel and supercede any earlier version or edition of AAK's General Terms and Conditions of Sale.

1.2 Deviations from these Conditions are accepted by AAK only if approved in writing by an authorised AAK executive.

### 2. DETAILS CONCERNING THE PRODUCTS

All descriptions, specifications and technical information relating to the Product in AAK's advertising, catalogues or brochures are intended to give an approximate idea of the Product only and shall not form part of the contract unless expressly agreed in writing by AAK.

### 3. QUOTATIONS AND ORDERS

Any quotation is given on the basis that no contract will come into existence, until AAK despatches an acknowledgement to the buyer ("a Contract"). Any quotation given by AAK is valid only for the time period stated in the quotation. AAK may withdraw a quotation at any time. No order shall be binding unless accepted in writing by AAK.

### 4. DELIVERY AND TIME OF DELIVERY

4.1 Unless otherwise agreed in writing between the parties, the Product shall be delivered "FCA" AAK's site named in the acknowledgement of order, as such term is defined in the latest prevailing version of INCOTERMS.

4.2 Where Product is to be delivered by instalments, unless otherwise agreed in writing, the agreed quantity of the Product shall be delivered by equal instalments and each delivery shall be considered as a separate sale. Where AAK agrees that the buyer may call off Product during an agreed call off period, the buyer agrees to call off all Product during the agreed call off period in accordance with the terms of the Contract and to give AAK written notice of each call off in reasonable time before the desired delivery date. A call off shall not become binding upon AAK until confirmed in writing by AAK. AAK shall be entitled to invoice the buyer after each call off for the quantity of Product called off.

4.3 The buyer shall not be entitled to (i) change the agreed starting time of deliveries of the Product or (ii) otherwise reallocate agreed quantities of the Product within the call off period or (iii) postpone agreed deliveries of the Product to a future period, unless, in the case of (iii) above, AAK agrees in writing an extension to the call off period and, in all cases, the buyer compensates AAK for all costs incurred and losses suffered due to such change including without limitation storage and shipping costs, raw material costs, trading losses, loss of profit and exchange rate movements, and pays an administrative charge equivalent to 20 EUR (but to be paid in the agreed currency for the deliveries if other than EUR) or such other amount as AAK may reasonably request per metric tonne of the Product affected.

4.4 If the buyer has not taken delivery of the entire agreed quantity of a Product by expiry of any call off period, AAK shall be entitled, at its sole option, (i) to require the buyer to immediately take delivery of and pay for any quantity of Product not called off and (ii) if the buyer fails to take delivery of such quantity, to terminate the Contract in respect of the quantity of the Product not called off, whereupon the buyer shall pay to AAK on demand such sum as shall compensate AAK for all costs incurred and losses suffered in respect of the quantity of the Product not called off including without limitation storage and shipping costs, raw material costs, trading losses, loss of profit and exchange rate movements. 4.5 AAK shall use reasonable endeavours to deliver Product on the date(s) agreed with the buyer but time shall not be of the essence and, subject to condition 4.6, AAK shall not be liable to the buyer for any delay in delivery.

4.6 In case a delay in delivery is caused by AAK, the buyer shall be entitled to compensation for damages only if agreed separately in writing by an authorised AAK executive. AAK shall in no event be liable for any pure economic loss or damages or any indirect or consequential loss, costs or damages resulting from a delay in delivery.

4.7 AAK shall at any time be entitled to require the buyer to pay for Product in advance of delivery and thereafter AAK shall not have any obligation to deliver until payment in full is received in cleared funds.

### 5. TAXES AND CHARGES

All applicable taxes, charges, custom or import duties relating to the delivery of the Product in the country of destination shall be paid by the buyer.

### 6. CONTRACT WEIGHT AND QUANTITY

6.1 The weight of the Product delivered in bulk shall be determined by AAK by the use of scales, outage meters or flow meters which have been calibrated specifically for such purpose.

6.2 The buyer shall notify AAK in writing if the weight or quantity of Product delivered deviates from the agreed Contract weight or quantity. Where there is delivered a shortfall in the agreed Contract weight or quantity AAK at its sole option shall be entitled (i) to make good the shortfall or (ii) issue a credit note to the buyer for the price of the shortfall in Product, calculated at the agreed Contract rate for the Product and, in each case AAK shall have no further liability to the buyer for the shortfall. Where AAK delivers in excess of the agreed Contract weight or quantity, the buyer shall accept and pay for the weight or quantity of the Product delivered where it is not in excess of 105% (meaning plus 5%) of the agreed Contract weight or quantity. Where the weight or quantity of the Product delivered is in excess of 105% of the agreed Contract weight or quantity, the buyer shall be entitled, subject to Condition 6.3, to reject any weight or quantity weight of the Product in excess of 105% (meaning plus 5%) of the agreed Contract weight or quantity.

6.3 Any claim by the buyer in respect of any shortfall in or excess of Product delivered must be notified in writing by the buyer to AAK within 14 days of delivery.

### 7. PRICE

7.1 AAK shall be entitled to adjust the Contract price, after acceptance of the buyer's order and before the delivery date to reflect any increase in the cost to AAK of performing the Contract which is due to any factor beyond AAK's reasonable control, including without limitation:

7.1.1 in any jurisdiction the judgement of a court of law or a change to, or the imposition of, law, regulation, treaty, mandatory guidance, code of practice or requirement of a regulatory body affecting the Product, AAK, the country to which the Product is to be delivered or any operation to be performed in respect of the Product, or any of the same ceasing to apply; or

7.1.2 in any jurisdiction the loss of, a change to, or the imposition of a requirement for any licence, certificate or consent; or

7.1.3 in any jurisdiction a change to, or the imposition of, any duty, tax, tariff, levy or other charge imposed on imports or exports of the Product or any raw material used to produce the Product or any packaging for the Product; or

7.1.4 as a result of the United Kingdom ceasing to be a member state of the European Union or any part of the United Kingdom ceasing to be comprised within the European Union; or

7.1.5 as a result of any agreement or other arrangement entered into by the United Kingdom or any part of the United Kingdom with any country, union, institution, authority or establishment.

AAK shall notify the buyer in writing after AAK has received information about such event and of the amount of the adjustment to the Contract price.

7.2 If, as a result of any of the events specified in Condition 7.1 above, there is any other adverse impact on AAK's ability to perform the Contract in accordance with its terms or applicable law which AAK cannot reasonably overcome by an adjustment to the Contract price, AAK shall notify the buyer and shall be entitled to terminate the Contract by written notice to the buyer.

7.3 The Contract price is exclusive of any applicable value added tax.

### 8. PAYMENT

8.1 Unless otherwise agreed in writing by AAK, payment shall be due within 28 days of AAK's invoice. Time for payment shall be of the essence. Invoices shall be issued on or after the day the Product leaves or is collected from AAK's site.

8.2 The buyer shall not in any circumstances be entitled to make any deduction or withhold any sum from the price by way of set-off or deduction.

8.3 In the event of any delay in payment, AAK shall be entitled to interest and compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and any regulations made under that Act. Interest shall be payable on the unpaid amount from the due date of payment until the entire invoiced amount has been paid in full at the rate of 8% above the Bank of England's Base Rate from time to time.

### 9. RISK AND PROPERTY

9.1 Risk of loss and damage to the Product shall pass to the buyer on delivery to the buyer or to a carrier appointed by the buyer.

9.2 The Product remains the property of AAK until the earlier of:

9.2.1 AAK receives payment in full (in cash or cleared funds) for the Product and any other products which AAK has supplied to the buyer in respect of which payment has become due, in which case title to the Product shall pass at the time of payment of all such sums; and

9.2.2 the buyer resells the Product, in which case title to the Product shall be deemed to pass to the buyer immediately before the conclusion of any contract between the buyer and its customer, or customers, for the sale of the Product.

9.3 The buyer's right to possession of the Product shall terminate immediately and all sums shall become due and payable immediately and AAK shall have the right to rescind or terminate any order for the Product (including where such Product has been delivered) if the buyer is affected by any of the events specified in Condition 14.

9.4 AAK shall be entitled to recover payment for the Product notwithstanding that ownership of any of the Product has not passed from AAK.

9.5 The buyer grants AAK, its agents and employees an irrevocable licence at any time to enter any premises where the Product is or may be stored in order to inspect the Product, or, where the buyer's right to possession has terminated, to recover the Product.

9.6 Where AAK is unable to determine whether any Product is the Product in respect of which the buyer's right to possession has terminated, the buyer shall be deemed to have sold or used all Product of the kind sold by AAK to the buyer in the order in which they were invoiced to the buyer.

### 10. DEFECTS

10.1 Should the Product, at the time of delivery, not conform with AAK's specifications or mandatory applicable laws or regulations in the country where the Product is sold, AAK shall, at its own discretion and at its own cost, either deliver new Product or refund the purchase price where it has been paid, and AAK shall have no further liability to the buyer. AAK shall not be liable for the suitability of the Product for its intended use or its fitness for a particular purpose. AAK shall not be liable for defects in the Product caused by the buyer's inappropriate or improper use or storage of the Product or by the buyer not adhering to AAK's instructions regarding handling of the Product.

10.2 The buyer shall carefully examine the Product upon delivery and without delay report to AAK in writing any defect to which Condition 10.1 applies. Any claim from the buyer must, in order to be valid, be made to AAK in writing not later than ninety (90) days from the delivery date and in any event before the Product or any part of it is used or put into production.

10.3 Any notice of any claim shall be specified and state the alleged defect and the delivery date of the Product. AAK shall be entitled to examine any delivery with an alleged defect and investigate any claim. If AAK agrees to deliver replacement Product it will collect the defective Product at its own cost.

### 11. PRODUCT RECALL AND PRODUCT LIABILITY

11.1 The following provisions shall apply to product recall:

11.1.1 The buyer shall not recall any of the Product or any goods incorporating the Product (together the "Affected Goods") without AAK's prior written consent.

11.1.2 AAK may require the buyer at the buyer's own cost to carry out a product recall of any Affected Goods sold by the buyer to its customers and/or issue any notification to the buyer's customers about the manner of use or safety of the Affected Goods already sold by the buyer.

11.1.3 If there is a product recall the buyer shall use its best endeavours to co-operate with AAK to ensure a prompt and effective product recall. The buyer shall retain all batch records and product information relating to the Affected Goods and make them available to AAK on request and advise AAK of the location of all Affected Goods.

11.1.4 Save to the extent that any withdrawal, recall or destruction of Affected Goods is directly caused by AAK's willful act or omission or negligence, the buyer shall indemnify AAK against all losses suffered and costs incurred by AAK arising out of any withdrawal, recall or destruction of Affected Goods pursuant to this Condition 11.

11.2 Subject to the buyer fulfilling all the conditions in this Condition 11, AAK shall indemnify the buyer against any liability incurred by the buyer in respect of death or personal injury arising from any fault or defect in the materials or workmanship of the Product and any reasonable costs, claims, demands and expenses arising out of or in connection with that liability ("Relevant Claim"), except to the extent the liability arises as a result of the action or omission of the buyer.

11.3 The buyer shall, as soon as reasonably practical after it becomes aware of a matter which may result in a Relevant Claim:

11.3.1 give AAK written notice of the details of the matter;

11.3.2 give AAK access to and allow copies to be taken of any materials, records or documents as AAK may require to take action under Condition 11.3.3;

11.3.3 allow AAK the exclusive conduct of any proceedings and take any action that AAK requires to defend or resist the matter, including using professional advisers nominated by AAK;

11.3.4 not admit liability or settle the matter without AAK's written consent and

11.3.5 give any assistance that AAK shall require to recall, as a matter of urgency, Product from the retail or wholesale market.

11.4 The buyer shall indemnify AAK against any liability incurred by AAK to a third party arising from any fault or defect in the Product caused by any act or omission of the buyer and any reasonable costs, claims, demands and expenses arising out of or in connection with that liability.

11.5 AAK's liability as set out in Condition 11.2 above shall be limited to one million pounds sterling (£1,000,000) each claim including two or more related claims. Any claim against AAK in respect of bodily injury as described in Condition 11.1 shall be deemed waived by the buyer, unless submitted to AAK in writing not later than 14 days from the date on which the buyer became aware of its right to claim under the indemnity in Condition 11.2.

### 12. LIMITATION OF LIABILITY

12.1 AAK shall not be liable to the buyer for economic loss, loss of profit, goodwill, business opportunity or production downtime or any type of indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract; and

12.2 AAK's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price of the Product the subject of the claim.

12.3 Nothing in these Conditions excludes or limits the liability of AAK for death or personal injury caused by AAK's negligence or for any matter which it would be illegal for AAK to exclude or attempt to exclude its liability or for fraud or fraudulent misrepresentation.

### 13. FORCE MAJEURE

AAK shall not be liable for any delay in performance or non-performance of its obligations caused by circumstances beyond AAK's reasonable control, (force majeure). Such circumstances shall include (without limitation) difficulties in procuring raw materials, labour conflicts, fire, accident, flooding, fuel or power shortages, transportation shortages, failure of telecommunications services, obstacles or interruptions regarding transportation at sea and breakdowns or interruptions of any kind as regards AAK's equipment or facilities.

### 14. INSOLVENCY OF BUYER

14.1 Without prejudice to any other right or remedy available to AAK, AAK shall be entitled to terminate the Contract immediately if: (i) the buyer convenes a meeting or makes a voluntary arrangement with creditors or (ii) an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the buyer or (iii) the buyer becomes bankrupt or (iv) the buyer (being a company) goes into liquidation (otherwise for the purposes of amalgamation or reconstruction) or (v) a receiver is appointed of any of the property assets of the buyer or (vi) AAK apprehends that any of the events mentioned above is about to occur in relation to the buyer and notifies the buyer accordingly.

14.2 If Condition 14.1 applies and Product remains undelivered AAK shall be entitled to terminate the Contract and the buyer shall remain liable to pay to AAK in accordance with these Conditions as compensation (i) any sums due in respect of Product delivered (ii) and the difference between the price agreed and the then market value of the quantity of the Products not delivered

### 15. DISPUTES AND GOVERNING LAW

15.1 These Conditions and any other agreement between AAK and the buyer shall be governed by English law.

15.2 Any dispute arising out of or in connection with Product supplied in bulk shall be settled by arbitration in accordance with the Rules of Arbitration and Appeal of F.O.S.F.A. Limited. The arbitration proceedings shall take place in London, United Kingdom.

15.3 Subject to Condition 15.2, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Conditions or their subject matter.

### 16. MISCELLANEOUS

16.1 No waiver by AAK of any breach of contract by the buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

16.2 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

16.3 The buyer shall not assign the contract or any part of it to anyone without the prior written consent of AAK. AAK shall be entitled to assign the contract or any part of it to any person, firm or company.

16.4 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

16.5 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.