



## H.WALTON: BUSINESS CONDITIONS OF SALE

### 1. APPLICABLE CONDITIONS

- a We are H Walton Ltd, a company registered in England and Wales with company number 04814871, and whose registered office at Old Goole Mill, South Park Road, Goole, East Yorkshire, DN14 8BD (**we, us, our, the Seller**).
- b Goods supplied by us to you (**you, your, the Buyer**) shall mean the products set out in the Sales Contract and which are subject to:
  - i the H. Walton Sales Contract (**Sales Contract**);
  - ii these Business Conditions of Sale (the **Conditions**); and
  - iii where applicable, the AIC Contract for UK Produced/Processed Feed Materials (Feed Materials No.7/21 (Effective from 1 February 2021)) (**AIC Contract 7/21**) or the AIC Contract for any other Feed Materials (Feed No. 3/21 (Effective from 1 February 2021)) (**AIC Contract 3/21**) provided by us (each, an **AIC Contract**). The relevant AIC Contract will depend on the Goods stated on the order (see condition 2).
- c It is expressly agreed that each order made by you for Goods shall be conclusive evidence of your acceptance of this condition 1.c. These Conditions, the Sales Contract and the relevant AIC Contract apply to and form part of the Contract between you and us (together, the **Contract**). If there is a conflict between the terms contained in the Conditions and the terms of the AIC Contract, the terms of the Conditions shall prevail to the extent of the conflict.
- d The specific details of your purchase shall be set out on the Sales Contract. No terms or conditions endorsed on, delivered with, or contained in your purchase conditions, order, confirmation of order, specification or other document shall form part of the Contract.
- e These Conditions prevail over any previously issued terms and conditions of purchase or supply, quotations or estimates which we may have given .
- f Your statutory rights are in no way affected by these Conditions.
- g Marketing and other promotional material relating to the Goods are illustrative only and do not form part of the Contract.
- h Any reference to business day in these Conditions shall have the meaning given to it as set out in the relevant AIC Contract.

### 2. ORDERS

- a Each order for Goods submitted by you to us shall be an offer to purchase the Goods subject to the Contract including these Conditions.
- b If we are unable to accept an order, we shall notify you as soon as reasonably practicable.
- c We may accept or reject an order at our discretion and each acceptance shall be subject to condition 2.f. An order shall not be accepted, and no binding obligation to supply any Goods shall arise, until the earlier of:
  - i us sending you our Sales Contract; or
  - ii us dispatching the Goods or notifying you that they are available for collection (as the case may be)
 at which point the 'Contract' shall come into force
- d Rejection by us of an order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by you.
- e We may issue quotations to you from time to time. Quotations are invitations to treat only. They are not an offer to supply the Goods and are incapable of being accepted by you. Orders are only accepted when set out in condition 2c above.
- f Where Goods sold are of third party origin, their sale is subject to the supplies being made available to the Seller by its supplier. In the event of failure of such Goods being readily replaceable from other sources at a price not exceeding the Contract price with the Buyer, the Contract between the Seller and the Buyer will be deemed to be cancelled without any liability to either party. If the Seller cannot obtain sufficient Goods at an economic price to meet all its contractual obligations, the Seller shall be entitled to allocate such goods as are available to it to such Buyer or Buyers as it shall in its absolute discretion determine, and the Buyer shall accept the allocated Goods. Such allocation shall be deemed to be in full compliance with the Contract. Delivery dates are estimates only, and subject to performance by third parties. Time for delivery shall not be of the essence for the Seller.

### 3. LIMITATIONS OF LIABILITY

- a The Price of the Goods is based on the following limitations of our liability.
- b If the Goods do not comply with the expressed terms of the Contract:
  - i we will, at our sole discretion, replace the defective Goods free of charge or refund payments made to us in respect of the defective Goods; and
  - ii under no circumstances whatsoever shall the Seller's total liability exceed the price of any defective Goods.
- c We hereby exclude all liability arising under or in connection with the Contract for:
  - i representation or advice previously given; and
  - ii consequential, indirect or special losses.
- d Subject to conditions 3.c and 3.e, our total liability shall not exceed the Price paid for the Goods by you.
- e Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
  - i death or personal injury caused by negligence;
  - ii fraud or fraudulent misrepresentation; or
  - iii any other losses which cannot be excluded or limited by applicable law.
- f It shall not be a condition of the Contract nor do we warrant that such representation or advice is accurate, nor that the Goods are fit for any particular purpose over and above their standard and usual usage.
- g Goods are warranted to be merchantable and fit for animal consumption up to their use by date, subject to condition 14.
- h All expressed or implied conditions, statements or warranties, save as expressly given in these conditions, are hereby excluded (to the fullest extent permitted by law).

### 4. PRICE AND PAYMENT

- a Subject to conditions 4f and 4g, all Goods will be quoted for and priced net per tonne and will be set out in the Sales Contract (**the Price**).
- b The Prices are exclusive of:
  - i any and all exclusions that we may agree with you prior to delivery, such as pallets or Intermediate Bulk Containers, where applicable, which shall be charged in addition at our standard rates; and
  - ii VAT (or equivalent sales tax).
- c You shall pay any applicable VAT to us on receipt of a valid VAT invoice.
- d Payment shall be due in full without deduction, counterclaim, withholding or set off upon the date indicated on the invoice. Invoices not specifying a payment date will be due on the 14<sup>th</sup> day following delivery. Time of payment is of the essence.
- e If payment becomes overdue in any one delivery or the Buyer is in default under any other contract with us, we shall be entitled (without prejudice to our other rights) to withhold further deliveries until the overdue payment (together with interest accruing on a daily basis from the due date for payment, until actual payment in full, at (i) 3% per month above the Seller's bank base rate from time to time, or (ii) 3% per month where the Seller's bank base rate is 0% or below) has been received or to treat the said contract as repudiated and to repossess any Goods delivered.
- f The Buyer shall pay any import duty, tax, levy or any payment whatsoever imposed by any government or regulatory authority in the European Economic Area relating to the Goods prior to delivery E & OE.
- g The Seller may increase the Price after the Contract comes into force, and before dispatch or collection, to pass on any increase in the Seller's costs which are beyond the reasonable control of the Seller and which in aggregate exceed [2]% of the total Price, including but not limited to any increase in transport, fuel, energy supply or labour costs. The Seller shall give the Buyer written notice of any such Price increase.

### 5. DELIVERY

- a The Goods shall be delivered by us, or our nominated carrier, to the location on the date(s) specified in the Sales Contract. The Goods shall be deemed delivered on completion of unloading.
- b We may deliver the Goods in instalments. Any delay or defect in an instalment shall not entitle you to cancel any other instalment.
- c Time of delivery is not of the essence. We shall use reasonable endeavours to meet delivery dates but such dates are indicative only.

### 6. FORCE MAJEURE

The Seller shall not have any liability under or be deemed to be in breach of the Contract for loss or delay in delivery or failures in performance of the Contract which result from Force Majeure. For the purposes of the Contract, "Force Majeure" shall mean an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including, without limitation, an act of God, fire, flood, lightning, earthquake or other



natural disaster, war, riot or civil unrest, interruption, action by any Government, strike (including dock and/or shipping strikes within the United Kingdom), lock out combination of workmen, civil commotion, breakdown of machinery, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service or material required for performance of the Contract, power failure, fire, flood, failure of crop, fuel shortage, loss and or detention at sea or without limitation or any other contingency beyond the Sellers reasonable control, but excluding the Buyer's inability to pay or circumstances resulting in the Buyer's inability to pay.

#### 7. CLAIMS AND COMPLAINTS

The Goods are perishable and therefore it shall be the Buyer's duty to inspect the Goods on delivery. The Seller shall not be liable for claim for defects, non-delivery shortages, damage or incorrect delivery or for any other reason unless it is notified to the Seller or to the carriers at the point of the delivery, and the Seller has been given an opportunity to inspect the Goods before the removal from point of delivery. Should the Buyer not be present at the point of delivery all defects, non delivery shortages, damage or incorrect delivery must be notified to the Seller within 24 hours of deliveries.

#### 8. PROPERTY AND RISK

- a Title to the Goods shall not pass to the Buyer until payment is received in full and in cleared funds.
- b Until title to the Goods has passed to the Buyer, the Buyer shall:
  - i hold the Goods as bailee for the Seller;
  - ii store the Goods separately from all other material in the Buyer's possession;
  - iii take all reasonable care of the Goods and keep them in the condition in which they were delivered;
  - iv insure the Goods from the date of delivery: (i) with a reputable insurer, (ii) against all risks, (iii) for an amount at least equal to their Price, and (iv) noting the Seller's interest on the policy;
  - v ensure that the Goods are clearly identifiable as belonging to the Seller;
  - vi not remove or alter any mark on or packaging of the Goods;
  - vii inform the Seller immediately if it becomes subject to any of the events or circumstances set out in conditions 8.b.i to 8.b.vi (inclusive); and on reasonable notice permit the Seller to inspect the Goods during the Buyer's normal business hours and provide the Seller with such information concerning the Goods as the Seller may request from time to time.
- c Any Goods supplied to the Buyer will be at the Buyer's risk from successful collection or delivery (as applicable).
- d At any time before title to the Goods has passed to the Buyer, in the event of non-payment by the Buyer or the Buyer informs the Seller, or the Seller reasonably believes, that the Buyer has or is likely to become subject to any of the events specified in condition 11, the Seller may:
  - i require the Buyer at the Buyer's expense to re-deliver the Goods to the Seller;
  - ii if the Buyer fails to do so promptly, enter any premises where the Goods are stored and repossess them; and/or
  - iii where the Seller has possession of the Goods, it may withhold deliveries under the Contract until all and any outstanding payments under this or any other contract with the Seller by the Buyer, have been received in full.

#### 9. THE BUYER'S DEFAULT

- a We shall not be liable for any delay in, or failure of, delivery caused by:
  - i your failure to prepare the location or make the location available;
  - ii your failure to provide us with adequate instructions for delivery; or
  - iii Force Majeure.
- b If you fail to accept delivery of or collect the Goods, or cause a delay in the successful delivery or collection of the Goods, we shall store and insure the Goods pending delivery, and you shall pay all reasonable storage and insurance charges.
- c If, 10 business days following the due date for delivery of the Goods as stated on the relevant Sales Contract, the Buyer has not taken delivery of or collected them, the Seller may resell or otherwise dispose of the Goods. The Seller shall:
  - i deduct reasonable storage charges and costs of resale; and
  - ii account to the Buyer for any excess of the resale price over, or invoice the Buyer for any shortfall of the resale price below, the Price paid by the Buyer for the Goods.
- d In the event of the Buyer not accepting delivery of the Contract quantity by the last day of the Contract period, otherwise than as a result of Force Majeure, the Seller may sell the Goods at the market written price and may charge rent interest and any other reasonable expenses from the Buyer, or may claim damages to be settled by arbitration, such damages not to exceed the difference between the Contract price and the market price on the day after the last day upon which the Contract could have been performed.

#### 10. SET OFF

The Seller reserves the right to set off any liability against any amount due from it and/or any debt that might be due from the Buyer to the Seller. In the event of non payment the Seller reserves the right to withhold deliveries and/or other goods belonging to the Buyer in the possession of the Seller notwithstanding these Goods may relate to a separate contract or instrument and may or may not have been paid for.

#### 11. INSOLVENCY

- a The Seller may terminate this Contract at any time by giving notice in writing to the Buyer if the Buyer:
  - i stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so (except where such announcement is due to a forthcoming retirement whilst honouring all existing contracts);
  - ii is unable to pay its debts either within the meaning of [section 123](#) of the Insolvency Act 1986 or if the non-defaulting party reasonably believes that to be the case;
  - iii becomes the subject of a company voluntary arrangement under the [Insolvency Act 1986](#);
  - iv becomes subject to a moratorium under [Part A1](#) of the Insolvency Act 1986;
  - v becomes subject to a restructuring plan under [Part 26A](#) of the Companies Act 2006;
  - vi becomes subject to a scheme of arrangement under [Part 26](#) of the Companies Act 2006;
  - vii has a receiver, manager, administrator or administrative receiver appointed over all or any part of its property, undertaking, assets or income;
  - viii has a resolution passed for its winding up;
  - ix has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
  - x is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
  - xi has a freezing order made against it;
  - xii being an unincorporated body, is dissolved or declared bankrupt;
  - xiii is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
  - xiv being an individual, has a bankruptcy order made against them; or
  - xv is subject to any events or circumstances analogous to those in conditions 11. a.i to 11.a.xiv in any jurisdiction,
  - xvi or, if a party being a partnership, any of the above events occurs with respect to the partnership or to any partner therein.
- b. On termination of this Contract for any reason:
  - i the Buyer shall immediately pay all outstanding invoices of the Seller;
  - ii the Seller shall promptly invoice the Buyer for all Goods delivered but not yet invoiced and payment for such invoices shall be due immediately on receipt by the Buyer;
  - iii the Buyer shall within five business days return any materials of the Seller then in its possession or control; if it fails to do so, the Seller may enter any premises owned by or under the control of the Buyer and take possession of them; and
  - iv the accrued rights and liabilities of the parties (including any rights in relation to breaches of contract) shall not be affected.
- c. Where the Contract is terminated in accordance with condition 11.a, the Seller shall be entitled to cancel and/or suspend and/or to refuse to make or accept any further deliveries to the Buyer.
- d. Whenever any of the rights of the Seller under this condition 11 are exercised by the Seller, the Seller will not be liable to pay any compensation to the Buyer.



12. **DESCRIPTION OR SAMPLE**  
Notwithstanding any description of the Goods which we may have given in any form or any sample which we may have supplied, this sale shall not constitute a sale by description or a sale by sample. Where the AIC Contract 3/21 is incorporated into this Contract, addendum (Advice) shall be incorporated into the Contract.
13. **WEIGHT**  
Contract weight of Goods delivered is as determined by the Seller. Evidence of weight shall be conclusive.
14. **MISCELLANEOUS**
- a. The Seller shall not be liable for any defect in the Goods:
    - i. where such defect arises by reason of wear and tear, wilful damage, negligence, or could be expected to arise in the normal course of use of the Goods;
    - ii. to the extent caused by the Buyer's failure to comply with the Seller's instructions in relation to the Goods, including any instructions on storage or maintenance;
    - iii. to the extent caused by the Seller following any specification, instruction or requirement of or given by the Buyer in relation to the Goods;
    - iv. where the Buyer modifies any Goods without the Seller's prior consent or, having received such consent, not in accordance with the Seller's instructions; or
    - v. where the Customer uses any of the Goods after notifying the Supplier that they do not comply with the Sales Contract.
  - b. **UNDRIED FEEDS:** Undried feeds must be handled and stored with care to avoid spoilage and such Goods showing signs of mould and/or other deterioration should not be fed to livestock and under no circumstances will the Seller accept any liability whatsoever where DEFRA guidance are not followed strictly.
  - c. **DRIED FOODS:** Any Goods which are of a pelletised or similar form, any broken pellets or meal is to be taken and paid for as pellets.
  - d. The Seller believes the feed hereby to be free from latent defect but is not a condition of sale nor does the Seller warrant that any feed sold by it shall be free from such defect.
  - e. In the absence of a detailed study at the request and cost of the Buyer, all information provided by the Seller relating to varieties, characteristics, quality, specifications, parameters or fitness for purpose or otherwise relating to the performance of Goods is given for general guidance only. The Buyers are therefore advised that any such information given to them does not constitute a representation as to these matters and should not be relied upon as such. The Buyer is advised that the Seller's staff have no authority to give more than general guidance as described as above and the Seller disclaims liability for any advice given or opinion expressed by them. Such advice is followed, or such opinion acted upon, entirely at the Buyer's own risk.
  - f. Where applicable, clause 22 (Salmonella) of the AIC Contract 3/21 or clause 12 (Salmonella) of the AIC Contract 7/21 shall apply to the Contract.
15. **ANTI-BRIBERY**
- a. For the purposes of this condition 15 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
  - b. The Buyer shall comply with applicable Bribery Act 2010 and all applicable laws in connection with bribery or anti-corruption including ensuring that it has in place adequate procedures to prevent bribery and ensure that:
    - i. all of its personnel;
    - ii. all others associated with it; and
    - iii. all of its subcontractors,
 involved in performing the Contract so comply.
  - c. Without limitation to condition 15.b, neither party shall make or receive any bribe (which term shall be construed in accordance with the Bribery Act 2010) or other improper payment or advantage or allow any such bribe or improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.
  - d. The Buyer shall immediately notify the Seller as soon as it becomes aware of a breach or possible breach by the Buyer of any of the requirements in this condition 15.
16. **ANTI-SLAVERY**
- a. The Seller shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy.
  - b. The Buyer undertakes, warrants and represents that:
    - i. neither the Buyer nor any of its officers, employees, agents or subcontractors has:
      1. committed an offence under the Modern Slavery Act 2015 (an **MSA Offence**); or
      2. been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
      - or
      3. is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
    - ii. it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;
    - iii. it has implemented due diligence procedures to ensure compliance with the Modern Slavery Act 2015 and the Modern Slavery Policy in its business and supply chain, and those of its officers, employees, agents or subcontractors, which will be made available to the Seller on request at any time throughout the Contract.
  - c. The Buyer shall notify the Seller immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Buyer's obligations under condition 16. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Buyer's obligations.
17. **IMPORT/EXPORT LAW**  
If there is any change in applicable law which affects the export or import of the Goods the Seller shall be entitled to rescind the Contract or to make alterations to or in the Goods or their packaging or to these Conditions to comply with the said provision or amendment and we shall not be liable for any loss suffered by the Buyer as a result.
18. **ENTIRE AGREEMENT**
- a. The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
  - b. Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
19. **NO PARTNERSHIP OR AGENCY**  
The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
20. **WAIVER**
- a. No failure, delay or omission by the Seller in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
  - b. No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Seller shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Seller.
21. **COMPLIANCE WITH LAW**



The Buyer shall comply with applicable law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

22. **CONFLICTS WITHIN CONTRACT**

If there is a conflict between the terms contained in the Conditions and the terms of the Sales Contract, AIC Contract, schedules, appendices or annexes to the Contract, the terms of the Conditions shall prevail to the extent of the conflict.

23. **THIRD PARTY RIGHTS**

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 of the provisions of the Contract.

24. **CONFIDENTIALITY**

- a. For the purposes of this Contract, "Confidential Information" means any commercial, financial or technical information, information relating to the Goods, plans, specifications, Prices, payment terms, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by the Seller in performing its obligations under, or otherwise pursuant to the Contract.
- b. The Buyer shall keep confidential all Confidential Information and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
  - i. any information which was in the public domain at the date of the Contract;
  - ii. any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
  - iii. any information which is independently developed by the Buyer without using information supplied by the Seller; and
  - iv. any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- c. This clause shall remain in force in perpetuity.

25. **LAW AND JURISDICTION**

- a. Where applicable, clauses 18 and 19 of the AIC Contract 3/21 or clauses 22 and 23 of the AIC Contract 7/21 shall apply to the Contract.
- b. The Contract and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England.
- c. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).