Wilmar Trading Australia

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WILMAR TRADING AUSTRALIA (WTA)

MASTER SALES TERMS & CONDITIONS

1. APPLICATION & PRECEDENCE

1.1 These Terms apply to all sales by WTA unless expressly varied in writing.
1.2 Each transaction shall be evidenced by a Trade Confirmation, Sales Contract or other written record issued by Seller.
1.3 Each Contract shall be governed by:
(a) Trade Confirmation / Sales Contract
(b) WTA Master Sales Terms & Conditions
(c) Grain Trade Australia (GTA) Trade Rules (current edition)
(d) Applicable Australian Oils Federation (AOF) Quality Standards
1.4 Order of precedence:
(i) Trade Confirmation
(ii) WTA Terms
(iii) GTA Rules

2. CONTRACT FORMATION

2.1 Contracts may be concluded verbally, electronically, by email or in writing.
2.2 Seller may issue a Trade Confirmation recording the agreed terms.
2.3 Buyer shall notify Seller of any discrepancy within 24 hours of receipt, failing which the Trade Confirmation shall be deemed accepted and binding.
2.4 Seller's records shall constitute conclusive evidence of the terms agreed unless manifest error is demonstrated.

3. QUANTITY TOLERANCE

3.1 Unless otherwise specified, Seller may deliver a quantity within plus or minus five percent (±5%) of the contracted quantity, subject to a maximum adjustment of 25 metric tonnes.
3.2 Buyer shall accept and pay for the quantity delivered at the Contract Price.

4. SPECIFICATIONS & QUALITY

4.1 Goods shall conform to the specifications stated in the Trade Confirmation and applicable AOF standards.
4.2 Quality shall be determined at origin unless otherwise agreed.
4.3 Seller's Certificate of Analysis or an independent surveyor's certificate shall be prima facie evidence of quality.
4.4 Buyer shall inspect Goods immediately upon delivery.
4.5 Visible quality claims must be submitted in writing within 24 hours of delivery.
4.6 Latent quality claims must be submitted within seven (7) days of delivery.
4.7 Claims must be supported by an independent survey or laboratory report.

4.8 Seller may, at its option:
(a) replace affected Goods;
(b) provide a price adjustment; or
(c) accept return of affected Goods.
4.9 If Buyer delays, refuses or fails to take delivery when due, Seller shall not be responsible for any subsequent deterioration in quality and Buyer shall bear all associated risks.

5. WEIGHTS & QUANTITIES

5.1 Weights shall be determined in accordance with GTA Rules unless otherwise agreed.
5.2 Weighbridge records, tank calibrations, flow meter readings or independent survey reports shall constitute conclusive evidence of quantity.

6. DELIVERY

6.1 Delivery shall occur in accordance with the Trade Confirmation.
6.2 Risk passes in accordance with the agreed delivery term.
6.3 Seller shall use commercially reasonable efforts to meet agreed delivery periods.
6.4 Weekly delivery schedules shall be agreed no later than Wednesday of the preceding week unless otherwise agreed.
6.5 Buyer shall allow two (2) hours for unloading. Thereafter Seller may charge demurrage at AUD 200 per hour or actual costs incurred.
6.6 Buyer, its employees, contractors and agents shall comply with all applicable health, safety, environmental, biosecurity and site requirements while on Seller's premises. Seller may refuse any instruction which may result in a breach of applicable transport, safety or Chain of Responsibility obligations without liability.
6.7 For delivered contracts, where freight costs increase materially due to circumstances beyond Seller's reasonable control, Seller may request an equitable adjustment to freight charges supported by reasonable evidence.

7. TITLE, PPSA & REPOSSESSION

7.1 Title shall not pass until Seller receives full payment in cleared funds.
7.2 Until title passes, Buyer shall:
(a) store Goods separately where practicable;
(b) keep Goods identifiable;
(c) maintain insurance; and
(d) not create any security interest over the Goods.
7.3 Seller may register and maintain a security interest under the PPSA.
7.4 To the extent permitted by law, Seller may enter premises where Goods are reasonably believed to be stored and recover unpaid Goods.
7.5 Buyer waives any right to receive notices under the PPSA to the extent permitted by law.

8. PAYMENT & CREDIT CONTROL

8.1 Payment terms shall be as specified in the Trade Confirmation.
8.2 Time for payment is of the essence.

8.3 Overdue amounts shall bear interest at the RBA Cash Rate plus four percent (4%) per annum, calculated daily.
8.4 Seller may set off any amount owed by Buyer against any amount owed by Seller under any contract between the parties.
8.5 Buyer shall not withhold payment or exercise any right of set-off unless agreed in writing or determined by final judgment.
8.6 Seller may reduce, withdraw or suspend credit facilities at any time acting reasonably.
8.7 Seller may require advance payment, cash security, bank guarantee or other credit support reasonably acceptable to Seller.

9. STORAGE & FAILURE TO LIFT

9.1 If Buyer fails to take delivery or lift Goods when due:
(a) Seller may transfer Goods into storage at Buyer's risk and cost;
(b) Seller shall not be liable for any deterioration thereafter;
(c) Buyer shall reimburse all freight, handling, storage and associated costs;
(d) Buyer shall bear all risks relating to the Goods.
9.2 Carry charges shall accrue at AUD 25 per metric tonne per month unless otherwise agreed.
9.3 Seller may invoice such charges immediately.

10. SUPPLY CONTINGENCY

10.1 Seller will use commercially reasonable efforts to secure supply and fulfil contractual obligations.
10.2 Where supply is materially disrupted beyond Seller's reasonable control, Seller may allocate available supply fairly amongst customers, reduce quantities proportionately, reschedule deliveries or cancel the affected portion.
10.3 Where Seller's supplier is unable to perform due to force majeure, government action, export restriction, logistics disruption or similar event beyond Seller's reasonable control, Seller shall be entitled to equivalent relief under this Contract.

11. REGULATORY & POLICY CHANGES

11.1 If taxes, duties, tariffs, environmental regulations, biofuel mandates, sanctions, export restrictions, quarantine requirements or other government actions materially impact performance or cost, the parties shall consult in good faith to agree an equitable adjustment.
11.2 Seller shall not be liable for any loss arising from suspension, withdrawal, amendment or loss of sustainability, traceability or certification schemes including RSPO, ISCC, Sustainable Canola or similar programs beyond Seller's reasonable control.

12. PERFORMANCE & EXECUTION

12.1 Buyer shall perform in accordance with agreed delivery schedules, spreads and lifting profiles.
12.2 Unexecuted monthly volume shall become Deferred Volume attracting AUD 25 per metric tonne per month unless otherwise agreed.
12.3 Seller may cancel, resell or otherwise dispose of unexecuted volume.

12.4 Seller may recover the difference between Contract Price and Replacement Price together with all reasonable freight, storage, financing, hedging, brokerage, legal and administrative costs incurred.
12.5 Seller shall mitigate losses in a commercially reasonable manner.
12.6 No temporary accommodation or indulgence shall constitute a waiver of rights.

13. DEFAULT & CROSS-DEFAULT

13.1 Events of Default include:
(a) failure to pay;
(b) insolvency;
(c) appointment of administrator, receiver or liquidator;
(d) failure to lift or accept delivery;
(e) breach of any contract with Seller;
(f) withdrawal or reduction of trade credit insurance;
(g) non-performance of agreed execution schedules.
13.2 Seller may suspend performance immediately where Seller reasonably believes Buyer may be unable to meet its financial obligations as they fall due.
13.3 Seller may require advance payment, cash security, bank guarantee or other satisfactory credit support as a condition of continued performance.
13.4 Upon default Seller may suspend, terminate, accelerate payment obligations and close out open contracts at market value.

14. FORCE MAJEURE

14.1 Neither party shall be liable for failure to perform due to Force Majeure.
14.2 Force Majeure includes but is not limited to:
(a) natural disasters;
(b) war;
(c) terrorism;
(d) government actions;
(e) sanctions;
(f) export bans;
(g) energy shortages;
(h) labour disputes;
(i) pandemics;
(j) biosecurity incidents;
(k) cyber incidents;
(l) logistics disruptions;
(m) breakdown of plant or equipment.
14.3 The affected party shall notify the other party as soon as reasonably practicable.
14.4 Obligations shall be suspended for the duration of the Force Majeure event.
14.5 If the Force Majeure event continues for more than thirty (30) days, either party may terminate the affected portion of the Contract.

15. LIMITATION OF LIABILITY

15.1 Neither party shall be liable for indirect, consequential, special or loss of profit damages.

15.2 Seller's aggregate liability shall not exceed the invoice value of the affected Goods.
15.3 Claims must be made within thirty (30) days of delivery.

16. SANCTIONS & COMPLIANCE

16.1 Performance is subject to all applicable sanctions, export controls and trade compliance laws.
16.2 Seller may suspend or terminate performance where compliance would otherwise be breached.

17. GENERAL

17.1 Buyer may not assign, transfer or novate any rights or obligations without Seller's prior written consent.
17.2 Seller may assign, transfer or novate its rights or obligations to any related body corporate, financier or affiliated entity.
17.3 Failure to exercise a right shall not constitute a waiver.
17.4 Notices may be given by email and shall be deemed received when transmitted without error.
17.5 The parties submit to the jurisdiction specified in the Trade Confirmation.

18. DISPUTE RESOLUTION

18.1 Any dispute arising under this Contract shall be resolved in accordance with GTA Arbitration Rules.
18.2 Pending resolution, both parties shall continue to perform undisputed obligations.

19. GOOD FAITH

19.1 The parties agree to act in good faith and cooperate commercially to resolve operational matters pragmatically and efficiently.