

**OLAM ORCHARDS AUSTRALIA PTY LTD**  
**STANDARD TERMS AND CONDITIONS OF SALE**

**As at September 2022**

Where expressly incorporated, Olam's Standard Terms and Conditions of Sale shall apply to all Contracts between Olam and the Buyer.

**1. DEFINITIONS**

1.1 In this Contract, the following terms shall have the meanings set out below:

- i. **Applicant** means an applicant under the Credit Agreement that may subsequently buy Product as specified in the Contract Confirmation.
- ii. **Buyer** means the buyer of Product as specified in the Contract Confirmation and, where applicable, may include an Applicant.
- iii. **CAD** means cash against documents and is given the meaning in Clause 5.2.
- iv. **Calendar Day** means every day in a calendar year, including weekends and holidays.
- v. **Chain of Responsibility** means the legal liability that applies to all relevant parties under the Heavy Vehicle National Law and applicable regulations passed by each of the states and territories in Australia.
- vi. **Confidential Information** means any trade secrets, know-how, technical, scientific, commercial, financial, product, market or pricing or other information of or about Olam to which the Buyer gains access in connection with the Contract.
- vii. **Contract** means, the contract for the sale and purchase of the Product, comprising the latest versions of the following documents as at the date of the Contract in descending order of priority where and to the extent of any inconsistency:
  - a. the Contract Confirmation;
  - b. Olam's Standard Terms and Conditions of Sale;
  - c. Olam's Credit Agreement;
  - d. Olam's Buyer Portal Terms of Use (where applicable); and then
  - e. Olam's Privacy Policy.
- viii. **Credit Account** means the account that is opened with Olam upon approval of the Credit Application by Olam.
- ix. **Delivery** has the meaning given in clause 7.3.
- x. **Delivery Period** means the period in which the Product is to be Delivered by Olam to the Buyer, as specified in the Contract Confirmation.

- xi. **Delivery Schedule** means the scheduling within which the Product is to be Delivered by Olam to the Buyer, as specified in the Contract Confirmation.
- xii. **Force Majeure Event** means any of the following: (i) war, whether declared or undeclared, hostilities, revolution or act of public enemies; (ii) riot, ban, strike, lock-out, civil commotion, difference with or between any workmen or industrial action; (iii) contamination arising out of any accidents to, or breakdown or failure of machinery, infrastructure, plant or equipment; (iv) fire, natural disaster, drought, storm, severe weather or flooding, epidemic, pandemic or acts of God; (v) terrorism or terrorism prevention; (vi) legislative or policy or restriction of any governments, governmental or semi-governmental or supranational or international or regulatory authorities or agencies or organisations, including but not limited to any prohibition or restrictions of movement of Product whether partially or otherwise, trade sanctions, foreign trade controls, non-proliferation, anti-terrorism and similar Laws; (vii) currency restriction; (viii) accidents, damage or destruction of machinery, infrastructure, plant or equipment; (ix) blockage, stoppage, accident or hazard in transportation; (x) action or inaction in connection with any licence, permit or approval; (xi) delay in the transportation of the Product or the forwarding of the Product to the loading point; or (xii) any other event or contingency, whether or not of a similar kind to the specific contingencies mentioned in this clause, where any such event/contingency, or any alleged consequent impact of same on its obligations under this Contract is, or was, beyond the reasonable control of the Party asserting the existence of the Force Majeure Event.
- xiii. **GST** means Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- xiv. **Heavy Vehicle National Law** means the *Heavy Vehicle National Law (ACT) Act 2013* (ACT), the *Heavy Vehicle (Adoption of National Law) Act 2013* (NSW), the *Heavy Vehicle National Law Act 2012* (Qld), the *Heavy Vehicle National Law (South Australia) Act 2013* (SA) and / or the *Heavy Vehicle National Law (Tasmania) Act 2013*, the *Heavy Vehicle National Law Application Act 2013*, as applicable.
- xv. **Incoterm** means the relevant Incoterm under Incoterms 2010 as specified in the Contract Confirmation.
- xvi. **Insolvency Event** means, in the opinion of Olam, the Buyer is or will imminently:
  - a. cease to carry on business;
  - b. enter into liquidation;
  - c. have a controller, managing controller, liquidator, provisional liquidator or administrator appointed;

- d. be unable to make a payment as that payment falls due and payable; or
  - e. the Buyer, being a natural person, is being or will be declared bankrupt, or is having their estate assigned for the benefit of creditors.
- xvii. **Inspector** means the inspection company, which may be Olam, that provides the inspection certificate, as specified under Product Specification in the Contract Confirmation.
- xviii. **Laws** means, without limitation, the common law and the rules of equity and any legislation (and all regulations, orders and directions made under those acts, subordinate or delegated legislation or statutory instruments) of any kind that is enacted, issued or promulgated by the Commonwealth of Australia, the States of Australia, or any other relevant jurisdiction.
- xix. **Notice** has the meaning given in Clause 29.
- xx. **Olam** means Olam Orchards Australia Pty Ltd (ACN 139 442 532) trading as "Olam Orchards".
- xxi. **Party** means Olam or the Buyer, and "**Parties**" shall mean both of them.
- xxii. **Payment Deadline** means the time by which the Buyer must ensure that payment in full for the Product is received as cleared funds by Olam, as specified in the Contract Confirmation.
- xxiii. **Payment Documents** means the documents, as may be specified in the Contract Confirmation, which Olam shall provide to the Buyer for payment under this Contract.
- xxiv. **Payment Method** means the method of payment, as specified in the Contract Confirmation.
- xxv. **Prepayment** is given the meaning in Clause 5.3.
- xxvi. **Price** means the price for the Product (expressed as Australian dollars per tonne), as specified in the Contract Confirmation.
- xxvii. **Product** means product of the type specified in the Contract Confirmation.
- xxviii. **PPSA** means the *Personal Property Securities Act 2009* (Cth).
- xxix. **Quality** means quality of the Product, as specified under Product Specification in the Contract Confirmation.
- xxx. **Quantity** means the quantity of the Product, as specified in the Contract Confirmation.
- xxxi. "**Sanctioned Person**" means any person who is:

- a. listed on, or is owned or controlled, directly or indirectly (as such terms are used in the Sanctions Laws or in any guidance in relation to the Sanctions Laws) by a person listed, on a sanctions list; or
  - b. organised under the Laws of, or a citizen or resident of, any Sanctioned Country; or
  - c. otherwise a target of Sanctions Laws.
- xxxii. **Sanctions Laws** means all Australian, US, English, European Union, Singapore, Swiss and any other relevant economic sanctions laws relating to transactions with restricted countries, persons and entities, including money transfers related to such transactions and restrictions against dealings with blocked/prohibited persons.
- xxxiii. **Seller** means Olam.
- xxxiv. **Standard Terms and Conditions of Sale** means the latest version of this document as at the date of executing the Contract Confirmation.
- xxxv. **Taxes** means all present and future taxes including without limitation, GST, levies, imposts, duties, excise, charges, fees, deductions, or withholding of any nature imposed, levied, collected, withheld or assessed by any taxing authority.
- xxxvi. **UCP 600** means the *Uniform Customs and Practice for Documentary Credits International Chamber of Commerce Publication No. 600*.
- xxxvii. **Working Day** means any day which is a working day where the work is to be performed or, as applicable, where payment is to be made or notice is to be given.

## 2. INTERPRETATION

The following rules apply unless the context requires otherwise:

- (a) the singular includes the plural and conversely;
- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) the meaning of general words is not limited by specific examples introduced by "including" or "for example";
- (d) headings and subheadings are inserted for convenience only and must not be used to interpret the text;
- (e) words denoting a natural person shall include a corporation and vice versa;
- (f) no provision of this Contract will be interpreted against a Party just because that Party prepared that provision or a relevant part of it;

- (g) a reference to a party includes that party's successors and permitted assigns and substitutes;
- (h) any reference to any agreement or document includes that agreement or document as amended;
- (i) a reference to a clause is a reference to a clause of these Standard Terms and Conditions of Sale;
- (j) all currency amounts are in Australian dollars unless expressly stated otherwise;
- (k) all weight measurements for Products shall, unless otherwise expressly stated, be in kilograms; and
- (l) an obligation not to do something will be deemed to include an obligation not to suffer, permit, or cause that thing to be done. An obligation to do something will be deemed to include an obligation to cause that thing to be done.

### 3. **SALE AND PURCHASE OBLIGATIONS**

Olam shall sell and deliver to the Buyer, and the Buyer shall purchase and take delivery from Olam of, the Product in accordance with this Contract.

### 4. **PRICE**

- 4.1 The Buyer must pay Olam the Price for the Product in accordance with the terms of the Contract.
- 4.2 Any price list maintained by Olam is indicative only and may change at any time without Notice to the Buyer. However, any orders placed by the Buyer will be Priced by Olam to the Buyer at the price quoted by Olam at the time of order.
- 4.3 Except as otherwise agreed, the Price includes all transportation costs, insurance and other charges or costs associated with the Delivery by Olam of the Product to the Buyer.
- 4.4 Unless otherwise indicated by Olam, the Price is exclusive of any GST.

### 5. **PAYMENT**

- 5.1 Time for the Buyer's performance of its obligations to make payment of the Price shall be of the essence.
- 5.2 "**CAD**": Where the Payment Method is CAD, the Price is to be received by Olam from the Buyer by telegraphic transfer by the Payment Deadline following electronic presentation by Olam of the Payment Documents to the Buyer.
- 5.3 "**Prepayment**": Where the Payment Method is Prepayment, payment is to be received by Olam in cleared funds three Working Days before Delivery.

5.4 **All Payment Methods:** Irrespective of the Payment Method used in the Contract:

- (a) All payments to Olam shall be made without offset, deduction, withholding or counterclaim.
- (b) All banking costs of Olam's bank are for Olam's account and all banking costs of the Buyer's bank are for the Buyer's account.
- (c) The Buyer's bank and all payment channels must be acceptable to Olam and will always be in accordance with the Sanctions Laws and all other relevant Laws, including in the event of any changes to such Laws or in any applicable bank policies concerning such Laws. In addition to and without waiving any rights Olam might otherwise have, the Buyer will be liable to and shall indemnify Olam in respect of any costs, expenses, damages and/or delays where the Buyer's bank and all payment channels are not acceptable to Olam or are not in accordance with the Sanctions Laws or other relevant Laws or any applicable bank policies concerning such Laws.

6. **FAILURE TO PAY**

6.1 If the Buyer fails to pay any amount(s) in accordance with this Contract by the Payment Deadline (or, where payment is to be made by way of prepayment, by the due date for payment in accordance with Clause 5.3), Olam has, at its sole discretion, (in addition to and without waiving any rights Olam might otherwise have), the right to exercise any one or more of the following non-exhaustive options:

- (a) add any costs, expenses or damages incurred by Olam to the Price and/or renegotiate the Price;
- (b) extend the Delivery Period and/or any other of Olam's obligations under the Contract, by the same period as the delay in performance by the Buyer of its obligation(s) to make payment of the Price under this Contract;
- (c) charge interest at the rate of 10% per annum from the Payment Deadline until the date Olam has received the payment;
- (d) terminate this Contract with immediate effect;
- (e) sell the Product to another counterparty and recover from the Buyer any deficiency between the Price and the re-sale price together with interest, and any other damages, losses, costs, and/or expenses arising;
- (f) with or without notice to the Buyer, withhold Delivery of any Product that it would otherwise be required to Deliver under the Contract; and/or
- (g) the balance of any monies owing by the Buyer to Olam shall immediately become due and payable by the Buyer to Olam without demand.

6.2 In addition to Clause 6.1 above, any and all losses, costs, expenses and/or damages which Olam may incur by reason of (but not limited to) the above will be entirely for the Buyer's account and the Buyer shall indemnify Olam for such amounts, including but not limited to any legal costs on an indemnity basis and interest on all outstanding amounts.

## 7. **SUPPLY AND DELIVERY**

7.1 Olam will exercise reasonable endeavours to supply and Deliver the Product to the Buyer within the terms of the Contract. However, Olam shall not be liable in the event Delivery does not take place at the time or on the date(s) requested by the Buyer, or in accordance with any contractual Delivery Schedule, even where such time(s) or date(s) is/are agreed to by Olam. For the avoidance of doubt, the obligation to call for Delivery rests with the Buyer.

7.2 Delivery of the Product may occur in part shipments, such as those set out in the Delivery Schedule, which may be individually invoiced, but will remain part of the Contract.

7.3 Delivery shall be deemed to have taken place:

- (a) where the Product is to be collected by or on behalf of the Buyer, when the Product is loaded onboard the mode of carriage at Olam's premises; or
- (b) where the Product is to be Delivered to the Buyer's premises within Australia, when the Product is unloaded at the Buyer's premises; or
- (c) where the Product is to be shipped overseas, as per the relevant Incoterm.

## 8. **ACCEPTANCE OF THE PRODUCT**

8.1 The Buyer must give Notice to Olam of any defect, shortfall or other claim in respect of the Quality and/or Quantity of Product within 7 Calendar Days after Delivery, otherwise, the Buyer shall be deemed to have accepted the Product. To be entitled to any remedy against Olam, the Buyer must ensure that any Product subject to a claim by it pursuant to this clause is properly protected and stored, and remains intact and in the same Quantity and condition as Delivered, until settlement of the claim, and shall provide Olam with access to the Product as and when required. Olam has the right to obtain any physical samples of the Product it deems necessary.

8.2 In the event the Buyer fails to fully comply with Clause 8.1, Olam is not responsible for, and the Buyer waives any claim arising out of or in connection with Quality and/or Quantity of the Product.

8.3 The Buyer acknowledges that it is within the usual nature and characteristics of the Product that it may comprise of irregular and / or aggregated matter, and / or may involve blended components, and such matter and components are liable to separation and deterioration in whole or part during loading, transportation and/or storage.

8.4 The Buyer acknowledges and agrees that the following provisions apply to the maximum extent permitted by Laws subject to any rights the Buyer may have under statutory consumer protection Laws including the *Competition and Consumer Act 2010* (Cth) and this clause is to be read subject to those rights which cannot be excluded, restricted or modified:

- (a) after acceptance of the Product, the Buyer shall not be entitled to reject the Product which is not in accordance with the Contract;
- (b) no Product Delivered to the Buyer which has been accepted by the Buyer may be returned to Olam without the prior written approval of Olam on terms acceptable to Olam;
- (c) if Olam agrees to accept any such Product for return, the Buyer shall be liable to pay all handling and other charges associated with that return and such Product must be returned by the Buyer to Olam in its original packaging;
- (d) Product returned without the prior written approval of Olam may at Olam's absolute discretion be returned to the Buyer or stored at the Buyer's cost without prejudice to any rights or remedies Olam may have against the Buyer; and
- (e) all returns of Product must be accompanied by the original invoice together with a written explanation as to the reason for the return.

## 9. RISK AND TITLE

9.1 The risk in respect to the Product passes to the Buyer immediately upon Delivery.

9.2 Title in the Product passes from Olam to the Buyer when:

- (a) Olam has received the Price as cleared funds in full from the Buyer; and
- (b) all other amounts whatsoever due to be paid by the Buyer to Olam have been received by Olam as cleared funds in full.

9.3 Until all the monies owing under Clause 9.2(a) have been received by Olam in full:

- (a) the Buyer shall take custody of the Product as trustee and fiduciary agent for Olam;
- (b) the Buyer shall keep the Product separate from any other product and properly marked, stored, protected and insured;
- (c) the Buyer must hold all of the money it receives ("**Proceeds**"):
  - (i) from the sale of any property into which the Product supplied has been incorporated; and
  - (ii) from the sale of product including the Product supplied by Olam as fiduciary agent and trustee for Olam.

9.4 The Buyer acknowledges that the Contract entered into between it and Olam in connection with any Product supplied does constitute a security agreement for the purposes of section 20 of the PPSA and that a purchase money security interest exists in the Product (and their Proceeds) previously supplied by Olam to the Buyer (if any) and in certain future Product (and their Proceeds) supplied by Olam to the Buyer. The Buyer must execute documents and do such further acts as may be required by Olam to register any purchase money security interest granted to Olam in accordance with the Contract under the PPSA. The Buyer waives its rights to receive any verification statement or financing statement under the PPSA.

9.5 Until title and rights in the Product have passed from Olam to the Buyer in accordance with Clause 9.2, the Buyer and/or its agents and any third parties hold any Product that may have been delivered by Olam as bailees only. Upon request made by or on behalf of Olam, the Buyer shall deliver up the Product to Olam. On breach of any payment terms in favour of Olam, the Buyer on its own behalf and on behalf of its agents and any third parties will use its best endeavours to facilitate (where the Buyer is not a party to a relevant agreement for a storage facility) or authorise (where the Buyer is the party to the relevant agreement for a storage facility) Olam to enter any premises and retake possession of the Product without Notice to the Buyer, its agents and third parties. Where the Product has been comingled with other product, Olam becomes an owner in common of the bulk product and the undivided share of Olam shall be such share as the quantity of Olam's Product bears to the quantity of the Product in the bulk. Until such time as Olam has received all outstanding payments in full, any on-sale by the Buyer is made as Olam's agent and the Buyer holds the Proceeds of any on-sale of the Product as agent of Olam and must account to Olam for those Proceeds, on demand. Where at the time of default in any payment terms to Olam, the Buyer has not received Proceeds of any on-sale Olam is expressly authorised to receive Proceeds of the on-sale direct from the Buyer's customer.

## 10. **LIMITATION OF LIABILITY**

10.1 To the maximum extent permitted by Laws:

- (a) All guarantees, conditions and warranties, express or implied by the relevant Laws, statute, custom or otherwise (including, without limitation, any warranty or condition relating to description, variety, characteristics, satisfactory Quality, merchantability, or fitness for purpose of the Product) are excluded;
- (b) Olam's liability for any loss arising from a breach of any guarantees, conditions and warranties, or this Contract, is limited to, at Olam's option:
  - (i) replacement of the Product or the supply of products equivalent to the Product;
  - (ii) the repair of the Product; or

- (iii) the cost of replacing the Product or acquiring products equivalent to the Product, or the payment of the cost of having the Product repaired;
  - (c) unless otherwise provided in this Contract, Olam will not be liable to the Buyer or any other person for any loss, damage or expense to the Buyer, whatsoever or howsoever caused and regardless of the form of action (including without limitation tort or strict liability), in any way connected with or arising out of this Contract;
  - (d) Olam is not liable for any of the following howsoever arising: any indirect, special or consequential loss or damage; loss of data or other equipment or property; economic loss or damage; incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); any loss of actual or anticipated profit, interest, revenue, anticipated savings or business or damage to goodwill, arising directly or indirectly from any failure or delay in performing any obligation pursuant to this Contract;
  - (e) Olam has no liability whatsoever for any technical advice, recommendation, information or assistance given, or the results obtained there from, all such advice being given and accepted at the Buyer's sole risk.
- 10.2 The Buyer indemnifies Olam against any loss which Olam pays, suffers, incurs or is liable for in connection with any breach of this Contract or negligence, by the Buyer or with Olam exercising its rights under this Contract.

## 11. **INSURANCE**

- 11.1 Unless otherwise provided in this Contract, the Buyer shall obtain, and maintain from the time at which risk in the Product passes to the Buyer under this Contract, insurance covering loss of, or damage to, the Product with first class underwriters at its own risk and expense. The Buyer shall ensure that the insurance obtained shall include Olam as an additional insured and, on request by Olam, the Buyer shall produce a copy of the insurance cover to Olam.
- 11.2 If the Buyer fails to provide evidence that it has effected insurance cover which complies with the above, Olam shall be entitled to effect such insurance at the Buyer's expense.

## 12. **SANCTIONS**

- 12.1 Each Party shall not take any act or make any omission that would result in violation by it or the other Party of Sanctions Laws in connection with this Contract or the Product.
- 12.2 Each Party shall ensure that it is not and does not become an individual, corporation, company, association or other entity who is a Sanctioned Person or owned or controlled (directly or indirectly) by such Sanctioned Person.

- 12.3 Upon becoming aware that it has become a Sanctioned Person or has violated any Sanctions Laws, a Party shall:
- (a) promptly Notify the other Party;
  - (b) provide information that the other Party reasonably requires from time to time in order for such Party to determine whether it or any of its representatives has become or is reasonably likely to become a Sanctioned Person or violate any Sanctions Laws; and
  - (c) subject to applicable Laws and confidentiality requirements, provide all information to the other Party which is requested by a regulatory authority that oversees Sanctions Laws.

13. **CHAIN OF RESPONSIBILITY**

13.1 The Buyer warrants that:

- (a) the Buyer will comply with all relevant Laws, including but without limitation those Laws relating to Chain of Responsibility (mass, dimensions, load restraint, driver fatigue and speed management); and
- (b) the Buyer will be trained and instructed in relation to compliance with applicable Laws in relation to the safe handling and transportation of Product as applicable to this Contract and will comply with those requirements at all times in the performance of this Contract.

13.2 At all times during the Contract, the Buyer will comply with the following Chain of Responsibility compliance assurance conditions:

- (a) the Buyer will require its personnel to comply with Chain of Responsibility obligations in any supply chain arrangement or any arrangement whatsoever in connection with Olam.
- (b) Olam is committed to taking all reasonable steps to ensure that any carriage of Product by road performed as part of this Contract is performed safely and in accordance with the Heavy Vehicle National Law and the Chain of Responsibility provisions it contains. Olam will not comply with any instruction or requirement of the Buyer that might have the effect of contributing to a breach of the Heavy Vehicle National Law or preventing Olam or any person in the Chain of Responsibility from taking all steps that it considers necessary to prevent any breach of the Heavy Vehicle National Law.
- (c) Upon becoming aware of any breach of any mass, dimensions, load restraint, fatigue, speed or maintenance requirement by the Buyer or any of its personnel, Olam may report the breach to the relevant authority and retain records of the breach.

- (d) Without prejudicing any of Olam's other rights under the Contract, in relation to any breach by the Buyer or any of its personnel of any mass, dimension, load restraint, fatigue, speed or maintenance requirement under the Chain of Responsibility laws, Olam reserves the right, in its sole and absolute discretion:
  - (i) to require that the person(s) responsible for the breach(es) are not used or engaged by the Buyer to perform the Contract in future; and
  - (ii) to terminate the Contract.
- 13.3 The Buyer undertakes to provide Olam, at Olam's request, copies of the Buyer's:
  - (a) Chain of Responsibility policy;
  - (b) mass, dimensions or load restraint policy;
  - (c) speed management policy;
  - (d) fatigue management policy; and
  - (e) maintenance management policy.
- 13.4 The Buyer undertakes to notify Olam in writing immediately in the event that any of its personnel, agents or sub-contractors is issued with any warning, request for information or production of documents, notice or fine in respect of any breach of any Chain of Responsibility law in performing the Contract. The Buyer undertakes to provide Olam with a copy of any such warning, request, notice or fine and any response or submissions made by it in relation to the same.
- 13.5 Olam may, in its discretion and upon reasonable written notice to the Buyer, audit the Buyer's work practices, work schedules, work records and any other records required by Olam to enable Olam to determine, to its satisfaction, that the Buyer is complying with applicable Laws
- 14. **COMPLIANCE WITH CERTAIN LAWS**
- 14.1 The Buyer acknowledges that Olam is subject to certain Singaporean laws including the *Singapore Prevention of Corruption Act* as well as anti-bribery and corruption legislation applicable in the country where the Contract is to be performed ("**Anti Bribery Laws**").
- 14.2 The Buyer acknowledges the Anti Bribery Laws prohibit, under the threat of severe penalty, the payment or giving of anything of value, either directly or indirectly through other parties, to an official of a foreign government (including officers and managers of government-owned or controlled companies) for the purpose of influencing these persons in their official capacity or inducing them to use their influence to assist Olam or its affiliates in obtaining or retaining business with any person.

14.3 The Buyer agrees that no part of the funds paid to it by Olam be used by the Buyer for any purpose which violates the Anti Bribery Laws including those applicable in any jurisdiction in which it takes any step for or on behalf of Olam or its Affiliates.

14.4 If at any time Olam believes in good faith that the Buyer has breached the terms of this clause 14, Olam shall be entitled to terminate the Contract with immediate effect and without further liability or obligation to the Buyer notwithstanding anything in clause 14 to the contrary.

## 15. **FORCE MAJEURE**

15.1 Neither Party shall be liable to the other under this Contract for any delay in performance of, or non-performance of its obligations under or in accordance with this Contract, if such delay or non-performance is as a result of a Force Majeure Event and due Notice, as described below, has been provided.

15.2 The Party whose performance of any obligation under this Contract is directly affected, or who has reason to believe that its performance may be affected by a Force Majeure Event shall, within 10 Working Days after (a) the commencement of the Force Majeure Event, or (b) the Party first becoming aware of the Force Majeure Event, whichever is the later, give Notice thereof to the other Party to this Contract, and shall take all reasonable measures to remove, overcome or minimise the effects of the Force Majeure Event. Such Notice shall include details of the nature, likely duration, the obligations affected by the alleged Force Majeure Event, the extent or possible extent of its effect on those obligations, and the steps taken by the Party invoking the existence of a Force Majeure Event to rectify it.

15.3 If a Force Majeure Event continues for up to 30 Calendar Days, the time limits and deadlines for the performance of either or both the Buyer's or Olam's obligations under this Contract which are affected by such Force Majeure Event will be extended day-for-day for as long as that Party is unable to comply or is delayed in complying with that Party's obligations under this Contract because of the occurrence of a Force Majeure Event or the effects of that Force Majeure Event.

15.4 If the Force Majeure Event continues after the expiry of these further 30 Calendar Days, then this Contract shall be terminated automatically, and neither Party shall have a claim against the other for delay or non-performance, provided that satisfactory evidence justifying the existence of a Force Majeure Event and the consequent delay or non-performance is presented to the other Party.

## 16. **LICENCES AND LAWS**

The Parties shall comply with all applicable Laws and lawful requirements of public authorities and other authorities in any way related to the supply of the Product.

17. **DEFAULT**

17.1 In addition to and without waiving or limiting any rights Olam might otherwise have, if a Party defaults upon performance of any of its obligations under this Contract the Party not in default may at its discretion and upon giving the defaulting Party Notice of default elect to either cancel this Contract, or to sell or purchase, as the case may be, against the defaulting Party who shall on demand make good the loss, if any, on such sale or purchase. If the Party liable to pay shall be dissatisfied with the price of such sale or purchase or if neither of the above rights is exercised the damages if any shall be determined by the arbitral tribunal, failing amicable settlement. The damages awarded against the defaulting Party shall be limited to the difference between the Contract price and the actual or estimated market price on the day of default. Damages are to be calculated on the mean Contract Quantity. The arbitral tribunal may at its absolute discretion award damages on different Quantity and/or award additional damages if they consider it justified by the circumstances of the default.

17.2 Prior to the last day of the Contract Delivery Period either Party may notify the other Party of its inability to Deliver or take Delivery but the date of such Notice shall not become the default date without the agreement of the other Party. If, for any other reason, either Party fails to fulfil this Contract and is declared to be in default by the other Party and default is either agreed between the Parties or subsequently found by the arbitral tribunal to have occurred, then the day of the default shall, failing amicable settlement, be decided by the arbitral tribunal.

18. **TAXES**

Where a Delivery made by Olam is subject to GST, the Buyer will upon receipt of a valid tax invoice pay, in addition to any other consideration payable to Olam, an amount equal to the GST on that supply. All other Taxes payable in Australia shall be the liability of the Buyer.

19. **GOVERNING LAW AND JURISDICTION**

This Contract is governed by and construed according to the Laws in force in Queensland as at the date of execution of the Contract and the Parties agree that any dispute, controversy or claim arising out of, relating to or in connection with the Contract, including any question regarding its existence, validity or termination shall be resolved by arbitration in accordance with the Dispute Resolution Rules of Grain Trade Australia in force at the commencement of the arbitration.

20. **INTERNATIONAL CONVENTIONS AND FOREIGN STATUTE**

The Parties acknowledge that the following shall not apply to this Contract:

- (a) the Uniform Law on Sales and the Uniform Law on Formation to which effect is given by the *Uniform Laws on International Sales Act 1967*;

- (b) the United Nations Convention on Contract for the International Sale of Goods of 1980, which was given effect by the *Sale of Goods (Vienna Convention) Act 1987* (NSW); and
- (c) The United Nations Convention of Prescription (Limitation) in the International Sale of Goods of 1974 and the amending Protocol of 1980.

21. **ENTIRE AGREEMENT**

The Contract constitutes the entire agreement between the Parties and any prior arrangements, agreements, representations or undertakings are superseded.

22. **WAIVER**

Unless provided otherwise in this Contract, no right under this Contract shall be deemed to be waived except by Notice in writing signed by each Party and such waiver by a Party shall not prejudice its rights in respect of any subsequent breach of the Contract by the other Party. Any failure by a Party to enforce any clause of the Contract, or any forbearance, delay or indulgence granted by a Party to the other Party, shall not be construed as a waiver of that Party's rights under the Contract.

23. **SEVERANCE**

If any clause, term or provision in this Contract shall in whole or in part be held to any extent to be illegal or unenforceable under any Laws or any enactment or rule of law, that clause, term or provision or part shall to that extent be deemed not to form part of the Contract and the enforceability of the remainder of the Contract shall not be affected and will remain on-foot.

24. **ASSIGNMENT**

The Buyer must not assign, transfer or novate the Contract or any rights or obligations under this Contract, without the prior written consent of Olam which will not be unreasonably withheld.

25. **TIME**

In the Contract, time shall be of the essence, unless stated otherwise.

26. **EXERCISE OF REMEDIES**

All rights and remedies of Olam under the Contract are in addition to Olam's other rights and remedies and are cumulative not alternative.

27. **BUYER ACKNOWLEDGEMENT**

The Buyer acknowledges that it has read and understands the terms of the Contract and the Buyer acknowledges and agrees that all orders for Product and otherwise placed with Olam by the Buyer will only be accepted subject to the terms of the Contract.

28. **SET OFF**

Olam shall be entitled to set off any monies owed by Olam to the Buyer against any monies owed by the Buyer to Olam.

29. **NOTICES**

29.1 Any Notice given by either Party will be in writing and will be deemed to have been given, when such Notice is given by post, at the time and date of its delivery at the recipient's premises, or, when such Notice is given by an electronic communication method including but not limited to email, at the time and date of its transmission.

29.2 Any Notices received after 1700 hours local time on a Working Day shall be deemed to have been received on the following Working Day. Should the time limit for doing any act or giving any Notice otherwise expire on a Saturday, Sunday or any public holiday, the time so limited shall be extended until the first Working Day thereafter. The Contract Delivery Period is not affected by this clause.

29.3 Each Party will provide the other with a person duly authorised to send and receive Notices.

30. **EXECUTION AND AMENDMENT**

31. The Parties may sign the Contract Confirmation and any addendum or variation, using a digital signature.

32. The Parties acknowledge and agree that sufficient IT protection has been implemented in the digital signature system to identify the users, the person who signs the Contract Confirmation through that system is validly signing it on behalf of the Party, and any such digital signature shall be treated in all respects as if it were an original signature in writing.

32.1 Any amendments to the terms of this Contract must be in writing and approved by an authorised representative of Olam.

33. **CONFIDENTIALITY**

33.1 Both the Buyer and Olam must hold and keep confidential, and each has a duty of confidence to hold and keep confidential, Confidential Information. Neither Party shall disclose any Confidential Information to any third party (including but not limited to any information in connection with any request made under section 275(1) of the PPSA) except with, and on the terms of, prior written consent of the other Party or as required by Laws. The Parties must ensure that all their officers and employees are aware of the obligations specified in this clause. Any Confidential Information remains the property of that Party supplying the Confidential Information and the other Party must destroy or return that information as so directed by the owning Party. The terms of this confidentiality clause survive the termination of the Contract for any reason.

33.2 Nothing in this Contract prevents disclosure of information that is:

- (a) in the public domain otherwise than as a result of the wrongful act of any person;
- (b) received by a Party from a third party, provided that it was not acquired as a result of the wrongful act of that third party (including breach of an obligation of confidentiality);
- (c) required to be disclosed by law or to any government or governmental body, authority or agency having authority over a Party or to the Party's legal or other professional advisors with whom there exists a relationship of trust.