

Simpsons Malt Limited

Terms & Conditions of Purchase (Malting Cereals)

Definitions

AIC Contract	the AIC No. 1/16 Contract Note for Home Grown Grain and Pulses (effective from 8 February 2016)
Buyer	Simpsons Malt Limited
Contract Period	the period of delivery or period as defined in the Purchase Contract Confirmation
Contract Specification	the specification, including variety and quality criteria, of the Goods as detailed in the Purchase Contract Confirmation
Crop Year	the 12 month period beginning on 1 July (for example Crop Year 2016 begins 1 July 2016)
Goods	cereals of a malting quality and grown in the United Kingdom
Purchase Contract Confirmation	the document issued by the Buyer to the Seller comprising any special terms, the Contract Specification and the Terms and Conditions of Purchase (Malting Cereals)
Seller	as defined in the Purchase Contract Confirmation
Terms and Conditions of Purchase (Malting Cereals)	the Buyer's standard terms and conditions comprising clauses 1 to 19 below together with the applicable terms of the AIC Contract

1. Precedence

- 1.1. In the event of a conflict between the terms of the Purchase Contract Confirmation, the Terms and Conditions of Purchase (Malting Cereals) and the applicable terms of the AIC Contract the documents shall take the following order of precedence:
 - 1.1.1. the Purchase Contract Confirmation;
 - 1.1.2. the Terms and Conditions of Purchase (Malting Cereals); and
 - 1.1.3. the applicable terms of the AIC Contract
- 1.2. Clauses within the AIC Contract relating to Goods Sold on Sample/Description; Special Terms; Drying; Quantity; Price and Period or Place of Delivery shall be interpreted by reference to the relevant terms in the Purchase Contract Confirmation.

2. Effective date

- 2.1. The Terms and Conditions of Purchase (Malting Cereals) shall remain in force until such time they are varied by the Buyer. All such variations shall be notified to the Seller in writing.

3. General

- 3.1. Unless otherwise agreed in writing with the Buyer these Terms and Conditions of Purchase (Malting Cereals) apply to the Purchase Contract Confirmation to the exclusion of any other terms that the Seller seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.2. The Purchase Contract Confirmation is contractually binding upon the Seller unless the Seller informs the Buyer in writing within 5 working days from the date of the Purchase Contract Confirmation as to the disputed terms.
- 3.3. The Buyer reserves the right to either reject any delivery of Goods or to claim a relevant allowance (in accordance with clause 16) against the purchase price of the Goods where the Goods do not meet the Contract Specification or fail to conform with these Terms and Conditions of Purchase (Malting Cereals).
- 3.4. Unless otherwise agreed by the Buyer any Goods not delivered by the Seller or rejected by the Buyer in accordance with Purchase Contract Confirmation shall be replaced by the Seller, at their cost, so that the Seller's obligations under the Purchase Contract Confirmation are fulfilled or, failing which, the Buyer, acting in accordance with the default clause of the AIC Contract, may procure any shortfall of Goods from an alternative supplier and the Seller shall indemnify and hold the Buyer harmless from and against any costs incurred by the Buyer pursuant to this clause.

4. Samples

- 4.1. All samples of Goods sent to the Buyer must be marked with:
 - 4.1.1. The Seller's name
 - 4.1.2. Purchase Contract Confirmation reference number
 - 4.1.3. The Goods variety
 - 4.1.4. The location of the Goods
- 4.2. All samples must weigh more than 200 grams.

5. Sampling

- 5.1. A representative sample of the Goods must be submitted by the Seller before delivery commences. Goods will only be accepted by the Buyer for delivery once representative samples of the Goods have been tested by the Buyer and the Buyer has approved the pre-delivery samples.
- 5.2. Each delivery of Goods will be sampled and tested by the Buyer at the delivery location. Such testing will be a combination of hand and visual evaluation of the Goods as well as the analytical measurement of the Goods against the Contract Specification.
- 5.3. Irrespective of any prior testing and analysis of Goods samples it is only upon delivery of the Goods by the Seller where samples are tested and measured by the Buyer against the Contract Specification for the purposes of accepting or rejecting the Goods or for applying an allowance in accordance with clause 16.

Simpsons Malt Limited

Terms and Conditions of Purchase (Malting Cereals)

6. Delivery and Weights

- 6.1. Unless otherwise agreed the Seller will deliver the Goods to the Buyer in bulk and at their cost on normal business days during the period of delivery. The Buyer will advise the Seller of the normal working hours at the delivery location and agree daily load allocations with the Seller.
- 6.2. All vehicles must be weighed at the Buyer's delivery location, both gross and tare weights. The Buyer's weights are final. The Seller may request weighbridge calibration certificates. No vehicle may discharge the delivery of Goods without the specific authorisation of the Buyer's representative at the delivery location.
- 6.3. The Buyer will not be responsible for any vehicle waiting time incurred by the Seller (or their subcontractor) at the Delivery location unless agreed in writing with the Buyer.
- 6.4. Daily delivery instructions must be strictly adhered to by the Seller, as must the requirements for deliveries to be performed within specific time slots. Deliveries over an agreed daily allocation are liable to refusal by the Buyer. Such refusals will be required to be replaced to satisfy the contract quantity.
- 6.5. The Buyer will provide delivery instructions (or a fixing) to the Seller by e-mail or fax. If a delivery cannot be made as required, the Seller is required to inform the Buyer immediately so that an alternative allocation date can be made. Delivery instructions will also detail the contract reference number.
- 6.6. Sellers who do not adhere to their daily allocations, or who persistently miss their time slots, will suffer reduced daily allocations. Under these circumstances the Buyer may extend, at no additional cost to the Buyer, the period of delivery so that the contract can be fulfilled.
- 6.7. The Seller must ensure that a delivery note is presented to the Buyer at the delivery location by the vehicle driver containing the following information:
 - 6.7.1. The name of the Seller
 - 6.7.2. The Buyer's fixing number
 - 6.7.3. The variety of the Goods
 - 6.7.4. The name of the haulier
- 6.8. The Buyer will forward to the Seller a daily weight advice note containing relevant information of each accepted delivery of Goods, including net weights, analysis and contract reference numbers. The Seller should ensure they provide the Buyer with up to date e-mail addresses for the relevant Buyer contacts who are to receive this information.

7. Vehicle Cleanliness and Safety

- 7.1. The Buyer reserves the right to make enquiries about the vehicle trailer's previous three loads together with any cleansing and sanitising operations carried out in relation to the last three loads. The Seller will ensure that it, or its sub-contractor, shall comply with all reasonable enquiries. Failure to comply with this obligation may lead to delays in delivery and possible rejection of the Goods.
- 7.2. It is the responsibility of the Seller to ensure that Goods delivery vehicles must comply with the requirements of the AIC Code of Practice for the Road Haulage of Combinable Crops.
- 7.3. The Seller must also ensure that vehicle drivers (employee or sub-contractors) comply with the Buyer's Health and Safety requirements, including speed restrictions, one way systems and the availability of banksmen to assist with the reversing of vehicles. The Buyer will provide driver site safety inductions.

8. Visual Inspection

- 8.1. The Buyer's testing of the Goods against the Contract Specification shall include the visual inspection of the Goods upon delivery to assess if the Goods are sound with sweet smell and (with trace level exception or agreed percentage limit) free from mouldy, heated, discoloured, damaged, split or green corns and shall be at least equal to any purchase sample appearance and shall be fully suitable in all respects for the purpose for which it was purchased by the Buyer. Goods containing live or dead injurious grain pests will be rejected by the Buyer. Goods failing these visual inspection tests will be rejected by the Buyer.

9. Germination

- 9.1. The Buyer reserves the right to reject any Goods with a germinative capacity, as tested for by the Buyer, of less than 98%.

10. Pre-Germination

- 10.1. The Buyer reserves the right to reject any Goods containing, as determined by the Buyer, pre-germinated corns unless an acceptable pre-germination percentage inclusion has been agreed within the Contract Specification.

Simpsons Malt Limited

Terms and Conditions of Purchase (Malting Cereals)

11. Moisture

- 11.1. Moisture content of the Goods will be measured by the Buyer. Unless otherwise agreed each delivery of Goods will be paid for on a basis of 14.5% moisture content to ISO 712 standard. Goods delivered in excess of 14.5% moisture will be subject to a purchase price allowance (in accordance with clause 16) calculated by reference to the moisture statement published at www.ukmalt.com by the Maltsters Association of Great Britain's for the relevant Crop Year. This moisture statement covers moisture content to 19%.
- 11.2. Where the Buyer specifically states a maximum moisture content in the Contract Specification, the Buyer reserves the right to reject any delivery in excess of this moisture.
- 11.3. For Goods delivered between 1 July and 31 October in the Crop Year of their harvest the Buyer reserves the right to either reject or to accept any delivery of Goods with a moisture content in excess of the Contract Specification up to the following maximum moisture limits:
- 11.3.1. 17.0% for any delivery location in East Anglia except Fersfield Grain Store which shall be 14.5%; and
- 11.3.2. unless otherwise agreed with the Buyer, 21.0% for all other delivery locations but in accepting such Goods the Buyer will apply a purchase price allowance and a drying charge (to be deducted from the purchase price) as follows:

Moisture Content %	Allowance Due % of Purchase Price	Drying Charge per tonne
19.1 - 20.0	6.3	£6.50
20.1 - 21.0	7.8	£8.50

- 11.4. For Goods delivered after 31st October in the Crop Year of their harvest then the Buyer will allow a maximum moisture limit under the Contract Specification of 14.5%. Any delivery of Goods of 14.6% and not more than 15.0% moisture can, at the Buyer's discretion, be accepted (after a moisture allowance in accordance with sub-clause 11.1) if analysed by the Buyer below a limit of 5 parts per billion for Ochratoxin A. If such delivery of Goods is accepted and provided the Contract Specification is otherwise met, the Goods will be accepted by the Buyer. Otherwise the delivery of Goods will be rejected.

12. Nitrogen

- 12.1. The Buyer reserves the right to reject any delivery of Goods, or to claim an allowance in accordance with clause 16 when the nitrogen content, ascertained by the Buyer on a dry matter basis, does not fall within any minimum or maximum limits set out in the Contract Specification.

13. Screenings

- 13.1. In order to compare any pre-purchase or pre-delivery samples and delivery samples, all Goods samples will be screened over 2.25mm and 2.5mm slotted hole standard screens.
- 13.2. The Buyer reserves the right to reject any delivery of Goods, or to claim an allowance in accordance with clause 16, when the Buyer's measurement of the 2.25mm and/or 2.5mm screenings content exceeds the limits set out on the Contract Specification.

14. Admixture

- 14.1. Each delivery of Goods must be presented in a clean condition. The Buyer reserves the right to reject any delivery of Goods, or to claim an allowance in accordance with clause 16, for any admixture of, but not limited to, dirt, other cereals, broken corns, green/immature corns and foreign substances in excess of 2.0% by weight; or of any one of the aforementioned in excess of 1.0% by weight. The Buyer will test the admixture.
- 14.2. Any delivery of Goods containing any ergot (however little it may be) or other harmful material will be rejected. The Buyer reserves the right to cancel all outstanding deliveries where the Buyer has evidence that any delivery presented at the delivery location contains ergot or harmful material. The Seller's obligations under sub-clause 3.4 apply where the Buyer exercises its rights under this sub-clause.

15. Variety

- 15.1. Unless otherwise agreed by the Buyer the varietal purity of each delivery of Goods is to be a minimum of 98% of the variety set out in the Contract Specification. The Buyer will test the varietal purity.

16. Procedure for Allowances and Rejections

- 16.1. If for any reason a delivery of Goods fails to meet the Contract Specification the Seller will be informed immediately. The Buyer will then either reject the delivery of Goods or apply the relevant allowances and make a resultant deduction from the purchase price of the Goods.
- 16.2. Where allowances are determined at the Buyer's discretion the Buyer shall act in a fair and reasonable manner that reflects standard industry practices for such matters. In such circumstances the Buyer will seek the agreement of the Seller to the allowance and no delivery of Goods shall be completed until a verbal agreement has been made with the Seller to accept the allowances determined by the Buyer and the resultant deductions from the purchase price of the Goods. However the Buyer reserves the right that after one unsuccessful attempt to contact the Seller the delivery of Goods shall be accepted in accordance with the allowances determined by the Buyer and the resultant deductions from the purchase price.

Simpsons Malt Limited

Terms and Conditions of Purchase (Malting Cereals)

17. Payment Terms

- 17.1. The Buyer operates a self-billing system and does not require the Seller's sales invoices. Invoices submitted by the Seller will not be accepted. The Buyer will prepare and submit self-billed purchase invoices to the Seller.
- 17.2. The value of the self-billed purchase invoice, excluding any statutory charges or taxes, shall be for the quantity of Goods accepted by the Buyer at the contracted purchase price as adjusted by:
 - 17.2.1.any deductions for contractual allowances and additional drying charges; and
 - 17.2.2.a deduction of £0.29 per delivered tonne for weighbridge charges
- 17.3. The Buyer reserves the right to amend the weighbridge charge in sub-clause 17.2.2 once in any 12 month period provided the Buyer gives the Seller two months written notice and the increase is no more than £0.02 per delivered tonne.
- 17.4. Unless otherwise stated in the Purchase Contract Specification the Buyer will pay for accepted Goods on or around 28 days after the Friday of the working week in which the Goods were delivered. In preparing self-billed purchase invoices the Buyer shall ensure that the invoice date is the date of the last delivery in the period covered by the self-billed invoice; that such period shall not extend beyond 7 days and that such period shall always cut off on a Friday.

18. Specific Warranties

- 18.1. The Seller warrants that the Goods:
 - 18.1.1.have not been grown on land treated with Bio-solids where Bio-solids, produced to certification standards or otherwise, include, but are not limited to; municipal sewage sludge, all composts, all anaerobic digestate and sludge from industrial treatment plants;
 - 18.1.2.do not contain genetically modified material; and
 - 18.1.3.comply with the terms of the Pesticide Residues clause of the AIC Contract and that only agrochemicals accepted by the British Beer and Pub Association ("BBPA") have been applied to the Goods or in any storage location where the Goods are stored. A list of the BBPA approved agrochemicals is available at www.ukmalt.com or on request from the Buyer.
- 18.2. Where the Seller breaches this clause 18 the Seller shall be liable for any costs, direct and indirect, incurred by the Buyer as a result of the Seller's breach. The Seller's liability shall be unlimited and shall survive beyond the period of delivery for an indefinite period. The Seller has no liability under this clause where the Purchase Contract Confirmation provides an express authority to supply Goods from land treated with Bio-solids.

19. Other matters

- 19.1. If any provision or part-provision of the Purchase Contract Confirmation is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Purchase Contract Confirmation.
- 19.2. This Purchase Contract Confirmation, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales.