

## GOLDCROP LIMITED

### TERMS AND CONDITIONS OF SALE

#### BASIS OF CONTRACT

- 1.a. A contract shall be made between Goldcrop Limited (Hereinafter referred to as "the Company") and the person, firm or company proposing to purchase from the Company (hereinafter referred to as "the Customer") of an order placed (whether orally or in writing) by the Customer and thereupon the parties shall be bound. No modification of these conditions shall be binding upon the Company unless otherwise stipulated herein or agreed to in writing by someone duly authorised on behalf of the Company.
  - b. Unless otherwise agreed in writing by the Company these conditions supersede any earlier set of conditions appearing in the Company's catalogues or elsewhere and shall override any terms or conditions stipulated incorporated or referred to by the Customer whether in any order placed by him or during any negotiations. All guarantees, warranties, or conditions (including any conditions as to quality of fitness for any particular purpose) whether express or implied by state, common law or otherwise are hereby excluded and negated.
  - c. All Goods supplied hereunder shall be to the customary trade standards and subject to the usual allowance for mill rolling, shearing, cutting, planing, shrinkage, drying and other recognised tolerances.
  - d. If it is agreed that any Goods are to be processed the Company may arrange for such processing to be performed by a third party subject to the standard terms and conditions of such third party and the Customer shall indemnify the Company against any claims for breach of patent or registered design thereby occasioned.
- 2.a. All orders for goods by the Customer through any agent or sales representative of the Company are subject to the approval and acceptance of such order or orders by the Company and all deliveries of goods in fulfilment of any such order or orders shall be authorised only by the Company at its' head office in the Republic of Ireland.

#### PRICE

- 3.a. Any price quoted by the Company or comprised in the contract is provisional only, and is subject to market fluctuations and/or changes in basic national wage rates, freight charges, rates of exchange, cost of material (including raw materials) or other relevant costs. Whilst every effort will be made to maintain prices quoted the Company reserves the right to execute orders at prices ruling at the time of delivery.

#### DELIVERY

4. If the preparation, manufacture or delivery of the goods is prevented, delayed or hindered in any way by an act of God or of any government, war (whether declared or not), invasion and other warlike action, any strike, lockout or other industrial action, or any other civil disturbances, non-availability of raw materials, accident, embargo, mechanical breakdown, fire or any other event beyond the Company's reasonable control, then in any such circumstances the Company may upon reasonable notice terminate or amend this contract in such manner as it shall think fit without being liable to the Customer for any loss or damage thereby incurred.
5. The Goods properly packed and secured in such manner as to reach their destination in good condition under normal conditions of transport, shall be delivered by the Company at, or despatched for delivery to, the place or places and in the manner specified in the order or subsequently agreed. Delivery to any lands or premises shall be deemed to be effected by delivery to the nearest off loading point or hard surfaced road.
6. The Company will endeavour to meet delivery dates, but shall be under no liability of any kind if it fails to meet any such dates whatever the cause of failure and whether such cause is under the Company's control or not. If so required by the Company, the delivery date or dates shall be extended for a reasonable period. Each delivery shall constitute a separate contract between the Company and the Customer and failure of any delivery shall not vitiate the contract as to the other deliveries but if the said extension in delivery time required by the Company shall exceed three months either party to the contract may cancel the undelivered balance of the contract by written notice to the other party without any claim on either side.
- 7.a. If for any reason the Customer is unable to accept delivery of the goods at the time when the goods are due and ready for delivery the Company may, at the request of the Customer, if it's storage facilities permit, agree to store the goods and safeguard them until their actual delivery, and the Customer shall be liable to the Company for storage, insurance and other expenses in so doing and the Customer shall pay to the Company interest at current overdraft rate on the value of the goods so held.
- b. The signature of any employee of the Customer acknowledging receipt of the goods shall be conclusive evidence of receipt of the goods specified on the relevant delivery docket.
- 8.a. Whether goods are sold f.o.b. or c.i.f. the responsibility of the Company shall cease immediately the goods are placed on board ship and the Company shall be under no obligation to give the Customer any notice whatsoever.
- 8.b. Where goods are to be delivered by public carrier the liability of the Company shall cease immediately the goods are delivered to the said carrier its' servants or agents for delivery to the customer.

#### PAYMENT

9. Time of payment shall be of the essence of the contract. Payment of the price shall be made within the period after delivery specified in the relevant invoice without reduction or deferment on account of disputes, cross claims or any other reason whatsoever. If the Customer shall fail to make payment on the due date for goods ordered or delivered under this or any other contract the Customer may have with the Company, the company may suspend further deliveries under this or any other such contract, and if payment or any part thereof shall

remain in arrears for seven days after written demand shall have been made therefor the Company may cancel this or any other contract, and in either case without prejudice to any other right the Company shall have. The Company shall be entitled to charge interest at the rate of 2 per cent per month on any overdue account.

10. In addition to any right of lien to which the Company may by law be entitled the Company shall be entitled to retain possession of all goods in its' possession or under its' control for the unpaid price of any goods sold to the Customer by the Company under this contract or any other contract.
11. In addition to any right of stoppage in transitu to which the Company may by law be entitled the Company shall be entitled to resume possession of all good sold by the Company to the Customer which are in transitu for the unpaid price of any goods sold to the Customer under this contract or any other contract.

#### **REPLACEMENT**

12. Goods proven to the satisfaction of the Company to be defective shall be replaced but the Company shall not in any circumstances whatsoever be liable to the Customer in respect of any consequential or indirect loss or damage (including loss of profit or liability to any third party) which the Customer may suffer by reason of any default or failure of the Company.

#### **DEFAULT**

13. If the Customer shall make default in or commit a breach of the contract or of any other of his obligations to the Company, or if any distress, execution or other process shall be levied on the Customer's property or assets, or if the Customer shall make or offer to make any arrangement or composition with its' creditors, or shall commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the Customer is a limited company, any resolution or petition to wind up such company's business (other than for the purpose of reconstruction or amalgamation) shall be passed or presented, or if a receiver of such company's undertaking, property or assets of any part thereof shall be appointed the Company shall have the right forthwith to suspend all further deliveries and to determine with or without notice any contract then subsisting between the Company and the Customer but without prejudice to any claim or right the Company may otherwise make or exercise.
14. Notwithstanding any other provision or agreement as to payment in this contract, if in the sole opinion of the Company, the financial position of the Customer warrants such action the Company may demand payment in cash before delivery of all or any part of the goods and on failure of the Customer to make such payment the Company may cancel without prejudice to any other right the Company may have.

#### **RETENTION OF TITLE**

- 15.a. The ownership of all goods shall remain in the Company until such time as all debts due to the Company from the Customer shall have been paid.  
Until such time as all such debts have been discharged in full the Customer shall:-
  - i. Store the goods so as to clearly show them to be the property of the Company:
  - ii. Hold the goods and all monies received from the sub-sale thereof as bailee and trustee respectively for the Company: and
  - iii. at the request of the Company shall furnish the Company with the names and addresses of debtor sub-purchasers and all appropriate particulars thereof so as to enable the Company to recover direct from such sub-purchasers sums owing by them.
- b. The risk in the goods shall pass to the Customer upon delivery of same to the Customer and the signature of any employee of the Customer on the delivery docket shall be conclusive evidence of such delivery.

#### **CLAIMS**

16. Any claim relating to goods delivered under this contract shall be notified to the Company in writing within 7 days from the date on which the said goods are received by the Customer or his agent and the Customer shall afford the Company reasonable facilities for examining the goods before they have been disposed of, or treated, or cut, or in any way altered. All goods damaged in transit and accepted in that condition by the Customer shall not be the subject of any claim hereunder.

17. Any claim or claims in respect of goods delivered under this contract shall not be a ground for withholding payment of accounts and shall not give any right to set off against payment due to the Company.

#### **CONDITIONS AND WARRANTIES**

18. Where the Purchaser deals as a Consumer within the meaning of The Sale of Goods and Supply of Services Act 1980, the goods are sold subject to any Conditions and Warranties implied by The Sale of Goods Act 1893 and 1980 or any amending statute.  
Save in the case where the Purchaser deals as a Consumer as described hereinbefore in this clause, all statements representations conditions or warranties as to the quality of the goods or their fitness for any purpose whether expressed or implied by law otherwise are hereby expressly excluded.

#### **PURCHASERS RIGHTS**

19. Nothing contained herein or in any other document in relation to this transactions intended to affect or prejudice nor will it affect or prejudice the contractual rights if any enjoyed by the Purchaser by virtue of the Sale of Goods Acts 1893 and 1980 and in particular of Sections 12, 13, 14 and 15 of the said Act of 1893 as amended.

#### **GENERAL**

20. All disputes differences or questions at any time arising between the parties as to the construction of the contract or as to any matter or thing arising out of the contract or in any way connected therewith shall be

- referred to the arbitration of a single arbitrator who shall be appointed by the President for the time being of the Incorporated Law Society of Ireland.
21. These conditions and the contract shall be subject to and construed in accordance with the laws of the Republic of Ireland. The customer submits to the jurisdiction of the Irish Courts of Law.