# ADM NEW ZEALAND LIMITED (NZBN 9429030081338) - TERMS AND CONDITIONS OF SALE

1. **Exclusive Terms:** These terms ("Conditions") apply to all orders ADM accepts for products it manufactures, supplies, distributes or packages ("Products"). ADM is not bound by any terms the Customer puts forward, including in a purchase order or specification, unless an authorised ADM officer agrees to them in writing. These Conditions are the entire agreement between the parties. No other terms, conditions, warranties or representations apply, except those implied by law that cannot be excluded by law.

2. **Prices and Payment:** Prices for Products quoted in published price lists or by representatives of ADM are subject to change without notice and are not binding on ADM until confirmed by the parties. All prices for Products do not include any sales tax, which may be separately charged to the Customer. Unless otherwise agreed separately in writing, all sums owing to ADM must be paid by the Customer within 30 days of the end of the month in which ADM delivers the Products. The Customer has no right to set off any claim against amounts owed to ADM.

3. **Overdue Amounts**: In addition to ADM's other rights and remedies, if the Customer misses a payment deadline for any reason other than ADM's default, the Customer must pay interest on the unpaid amount from the due date until payment, at 4% per annum above the Reserve Bank of New Zealand's Official Cash Rate.

4. **Risk and Title:** All risk in Products passes to the Customer on delivery. ADM keeps title to the Products until it receives full payment, including any accrued interest and taxes. Until then, ADM holds a security interest in the Products and any proceeds from them. If payment is overdue, or the Customer enters liquidation, has a receiver or administrator appointed, or cannot pay its debts as they fall due, ADM may repossess its Products and enter any premises without notice to do so. If the Customer disposes of ADM's Products or makes an insurance claim on them, ADM may trace the sale or insurance proceeds, which the Customer must hold on trust for ADM in a separate bank account.

5. **PPSR:** ADM may register a Security Interest in the Products under the *Personal Property Securities Act 1999* ("Act"). The Customer consents to this and waives its right to a copy of any financing statement, financing change statement or verification statement relating to that Security Interest. Under section 107 of the Act, the Customer and ADM contract out of sections 114(1)(a) and 133, and the Customer's rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131. The Customer acquires the Products for business purposes. The Customer must, at its own cost, do everything ADM reasonably requires, including signing documents and providing information, to help ADM register and keep perfected a Security Interest in respect of all Security Interests created under these Conditions, and a Purchase Money Security Interest wherever possible. Terms defined in the Act have the same meaning in this clause.

6. **Delivery:** Products are sold on the delivery terms (including any applicable Incoterm rule, delivery point and other arrangements) specified in the relevant quotation, order acknowledgement, contract or invoice. Unless otherwise agreed, delivery occurs when the Products are delivered or made available in accordance with those agreed delivery terms. ADM will use reasonable endeavours to meet requested delivery dates but is not liable for any loss or damage, including indirect losses such as lost profits, revenue or business opportunity, arising from any delay. The Customer must inspect all Products promptly on delivery. The Customer is deemed to have accepted delivery after seven days unless it submits a written claim to ADM within that period.

7. **Legislation:** ADM and the Customer agree that they are both in trade and that the Customer is purchasing the Products for business purposes. Accordingly, the parties agree that the Consumer Guarantees Act 1993 (CGA) will not apply; and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 (FTA) will not apply. The parties agree that contracting out of the provisions of the CGA and FTA is fair and reasonable and that the parties had the opportunity to negotiate the Conditions.

8. **Liability:** To the extent the law allows, ADM is not liable for any indirect losses, such as lost profits, revenue, business or goodwill, arising from the Customer's use or possession of the Products.

9. **Non-availability of Products:** ADM must use reasonable endeavours to fulfil the Customer's orders but is not liable for any loss or damage from a stock shortage.

10. **Force Majeure:** Neither ADM nor the Customer will be liable for failing or delaying to deliver or accept Products if the failure or delay is caused by something beyond that party's reasonable control, including acts of God, war, fire, strikes or other labour disputes, accidents, equipment breakdowns, government action or requirements, shortages of labour, materials, containers or transport equipment, and transport delays, whether or not similar to these examples. However, if ADM ships Products, arranges carriage for them, or starts manufacturing Products for the Customer's order before receiving written notice from the Customer that the Customer cannot accept them due to such an event, the Customer must still accept and pay for those Products, together with any extra costs ADM incurs because of the Customer's failure or delay in accepting them. ADM is not required to purchase Products from third parties to deliver to the Customer where ADM has claimed force majeure.

11. **Credit**: The Customer must, on ADM's request, from time to time, provide any financial or credit information ADM reasonably requires to assess the Customer's creditworthiness. If ADM reasonably considers the Customer's ability to pay, or any security it holds, is no longer sufficient, ADM may require the Customer to provide a bank guarantee, in a form and from a bank ADM accepts, for up to 3 months of ADM's estimated charges under these Conditions. The Customer must provide the guarantee within 5 days of ADM's notice otherwise it will be a material breach of these Conditions.

12. **Termination:**

    (a) Either party may terminate these Conditions by giving the other 6 months' written notice. Any obligation on the Customer to pay any amounts under these Conditions will survive termination.

    (b) A party (the "Non-Defaulting Party") may terminate these Conditions:
        (i) by notice if the other party commits a material breach that it does not remedy within 30 days of receiving written notice of the breach; or
        (ii) immediately by notice where the other party enters liquidation, has a receiver or administrator appointed, or cannot pay its debts as they fall due.

13. **Intellectual Property**: ADM (or its licensors) owns all intellectual property in the Products, including its trade marks, branding, packaging and labelling. The Customer gets no rights or licence in that property, other than to resell or otherwise deal with the Products in their original packaging, without altering, removing or obscuring any ADM branding or labelling.

14. **Privacy.** Each party must comply with its obligations under all New Zealand laws relating to data protection, including the *Privacy Act 2020*, in connection with these Conditions.

15. **Dispute Resolution.** If a party believes a dispute has arisen it must notify the other party in writing with reasonable details of the dispute. Unless otherwise agreed, senior representatives of both parties must meet within 10 days of the notice to resolve the dispute. If the meeting has not occurred or the dispute is unresolved within 30 days of that meeting, either party may bring the dispute before a court. This does not stop a party seeking urgent interim relief from a court, and both parties must keep performing their obligations while the dispute is being resolved.

16. **General:**

    (a) **Amendment:** No amendment to these Conditions is effective unless it is in writing signed by both parties.

    (b) **Severability:** If any provision of these Conditions is illegal, invalid or unenforceable, the rest remain in force.

    (c) **No Waiver**: A party's failure or delay in exercising any right under these Conditions is not a waiver of that right.

    (d) **Governing law:** The laws of New Zealand govern any contract incorporating these Conditions, and the parties submit to the exclusive jurisdiction of its courts.

    (e) **Assignment:** Each party must not assign all or any part of its rights or obligations under these Conditions without the prior written consent of the other party, such consent not to be unreasonably withheld. A change in the effective management, ownership or control of a party is deemed an assignment for the

purposes of this clause. Despite this, ADM may at any time assign, transfer by novation or otherwise deal with any of its rights, interests and obligations under this Contract to any of its Related Company (as defined in the Companies Act 1993), and will give the Customer written notice of any such assignment, novation or dealing.

(f) **Certificate Evidence:** A certificate signed by an officer or authorised representative of ADM stating the amount owing by the Customer at any date, or any other fact relevant to ADM's rights under these Conditions, is admissible in any proceedings and is prima facie evidence of the matters it states.