

STANDARD TRADING CONDITIONS ZAMBIA SUGAR PLC

1 DEFINITIONS

- 1.1 “**Company**” means Zambia Sugar Plc;
- 1.2 “**Company’s Representative**” means a representative of the Company appointed to act on the Company’s behalf in respect of the Contract;
- 1.3 “**Contract**” means any agreement between the Company and the Supplier for the provision of Goods or Services, including a written supply contract or a Purchase Order, together with these standard trading conditions and any other annexures and/or schedules to such contract;
- 1.4 “**Date of Delivery**” means the date that the Goods are to be delivered, or the Services are to be provided, as stated in the Purchase Order, failing which, in the Contract;
- 1.5 “**Delivery Address**” means the address to which the Goods are to be delivered, or the Services are to be provided, as specified in the Contract;
- 1.6 “**Goods**” includes all plant, products and other goods supplied, or to be supplied, by the Supplier to the Company, whether raw materials, processed materials, or fabricated products and includes any services associated with the Goods and any written instructions, manuals or other documents necessary for the installation or operation of the Goods;
- 1.7 “**Illovo Group**” means Illovo Sugar Africa Proprietary Limited, its holding companies and their subsidiaries from time to time, and any other entity in which Illovo Sugar Africa Proprietary Limited holds a direct or indirect beneficial interest of 30% or more;
- 1.8 “**includes**” means “includes, without limitation to the generality of the foregoing” and “**including**” has a corresponding meaning;
- 1.9 “**Parties**” means the Company and the Supplier;
- 1.10 “**Price**” means the agreed price/s for the Goods and/or Services specified in the Contract;
- 1.11 “**Purchase Order**” means a written document issued by the Company detailing the Goods and/or Services ordered;
- 1.12 “**Services**” means all services provided, or to be provided, by the Supplier to the Company; and
- 1.13 “**Supplier**” means the natural or juristic person supplying the Goods and/or Services, as indicated in the Contract.

2 CONTRACT

- 2.1 The Contract shall constitute the entire agreement between the Parties relative to the supply of Goods and/or Services to the Company and no other conditions shall be binding on the Parties, notwithstanding that such conditions may be annexed to, contained in or incorporated by reference in, any documents exchanged between the Company and the Supplier and purport to regulate the terms of any supply. Save as set out in the Contract, no warranties, representations or undertakings shall be binding upon the Company.
- 2.2 The Company shall not be bound by any Contract unless, and to the extent that, such Contract is recorded in a written supply contract and/or Purchase Order.
- 2.3 In the event of a conflict between these standard trading conditions and any other terms of the Contract, the latter shall prevail to the extent of such conflict.
- 2.4 If any of the terms of the Contract are held to be invalid, illegal or unenforceable, whether in whole or in part, they shall be severable therefrom and such invalidity, illegality or unenforceability shall not prejudice the effectiveness of the remainder of the Contract.
- 2.5 The Contract may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

3 GOVERNING LAW AND JURISDICTION

- 3.1 The Contract shall be governed by the laws of the Republic of Zambia.
- 3.2 The Supplier hereby consents to the jurisdiction of the courts of the Republic of Zambia in respect of any action or proceedings which may be brought against it by the Company under or arising from this Contract. Notwithstanding the foregoing, the Company shall be entitled to bring proceedings in any other court or forum (whether or not in the Republic of Zambia) where such proceedings would, but for the foregoing consent, fall within the jurisdiction of such other court or forum.

4 COMPLIANCE WITH REGULATIONS

- 4.1 The Supplier shall, in the execution of the Contract and its obligations thereunder, comply with all relevant statutes, ordinances, by-laws and regulations having any bearing on the Contract and shall obtain all necessary licenses, permits and approvals that it requires to perform its obligations.
- 4.2 To the extent that it is within its reasonable control, the Supplier undertakes to obtain such registrations, certificates and documents, and/or complete and submit any applications or forms, as are necessary to ensure that the Company obtains the benefit of any reduction in or exemption from tariffs and/or duties applicable to the Goods or Services in terms of any customs protocols, free trade agreements or similar.

5 NOTICES

All notices and communications under the Contract shall be given in English and in writing. For the purposes of the Contract, “**writing**” includes emails that have been acknowledged by the recipient or facsimiles with proof of transmission or letters sent by registered post with proof of delivery. Verbal notices or instructions are not binding on either Party.

6 WARRANTY

- 6.1 The Supplier warrants that the Goods and/or Services will strictly comply with the provisions of the Contract, and that the Goods shall be new, merchantable, of the most suitable grade, fit for their intended purpose and free from defects in materials, workmanship and design. If the Contract specifies that the Goods and/or Services are to achieve a specific level of performance, the Supplier warrants that the Goods and/or Services shall achieve such levels. The Supplier also warrants that it will exercise reasonable skill, care and diligence in the performance of its obligations, in accordance with the professional standards of the relevant industry, and that the employees of the Supplier performing any Services will be physically fit and will possess the necessary qualifications and experience to provide such Services.

- 6.2 The warranties referred to in clause 6.1 above shall not apply if the Company uses the Goods for a purpose other than that for which they were designed, unless the Supplier has specifically agreed to such other use in writing, or the Company can show that such different use did not lead to, or contribute to, the breach of the warranty in clause 6.1.
- 7 INDEMNITY**
The Supplier indemnifies the Company against all claims by, or liability to, third parties arising from a breach of the Contract by the Supplier, its employees, agents and/or representatives, and/or from any of such person's negligence or wilful default.
- 8 INDULGENCES**
The grant of any concession, or condonation of any breach of these conditions, or other act of relaxation or indulgence on the part of the Company, shall not in any way constitute, operate as, or be deemed to be a waiver by the Company of any of its rights under the Contract.
- 9 RISK AND OWNERSHIP**
All risk in and to the Goods shall lie with the Supplier until full and complete delivery is effected. Ownership of the Goods shall pass on payment of the Price. Where ownership of the Goods passes to the Company prior to delivery, the Supplier shall set the Goods aside and clearly mark the Goods as the property of the Company, and shall keep the Goods insured until full and complete delivery has been effected.
- 10 INSURANCE**
A Supplier of Services must maintain in place comprehensive insurance cover relative to the performance of its obligations under the Contract and must provide proof of such insurance to the Company upon request.
- 11 DELIVERY**
11.1 The Supplier shall deliver the Goods to the Delivery Address. Any carrier used for the purpose of transporting the Goods to the Delivery Address shall be deemed to be the Supplier's agent, notwithstanding that transport charges might be paid by the Company.
11.2 Goods shall be clearly marked with the name of Supplier and description of the Goods. If Goods are incorrectly delivered, the Supplier shall be responsible for any additional expense incurred.
- 12 WAYBILLS, INVOICES AND CORRESPONDENCE**
Waybills shall accompany each delivery. The relevant Purchase Order number must be recorded on the waybill, invoice and any correspondence relating to the Purchase Order.
- 13 WORKMAN'S COMPENSATION**
Where the Contract requires the Supplier or any of its employees to enter onto the Company's premises for any reason, including the carrying out of any work or Services, the Supplier shall suitably insure all persons employed by it in respect of injury or death on site. The Supplier shall be solely responsible for any claims arising from the injury or death of any of its employees / agents / representatives that may occur on the Company's premises and shall be required to make payment of any workman's compensation or like payments that may be payable by law in the country in which the Services (or other work) are carried out. The Supplier indemnifies the Company against all and any claims arising from the death or injury of any of the Supplier's employees, agents, representatives or subcontractors, arising in the carrying out of any of the Services, or while on the Company's premises.
- 14 TERMINATION**
14.1 Without prejudice to any rights of either Party to cancel the Contract, either Party may summarily cancel the Contract at any time by giving to the other written notice of the cancellation if:
14.1.1 the other Party is, other than for the purposes of reconstruction or amalgamation, placed under voluntary or compulsory sequestration, winding-up, business rescue or the equivalent of any of these in any jurisdiction; or
14.1.2 a judgment against the other Party in respect of which no appeal lies or in respect of which the period for lodging an appeal (excluding any period to seek condonation) has expired and remains unsatisfied for a period of at least 20 days; or
14.1.3 the other Party makes or offers to make a general assignment or any arrangement or composition with or for the benefit of its creditors generally (or any class of its creditors) in order to release it wholly or partially from its debts.
14.2 Termination of the Contract (by reason of cancellation, expiry or any other reason whatsoever) will not prejudice any right of action or remedy which may have accrued to either Party prior to termination or expiry.
- 15 PACKAGING**
The Supplier shall be responsible for the proper packaging of the Goods and the Company shall be entitled to recover from the Supplier any damage which it may suffer if the Goods are damaged due to faulty or improper packaging. Packing cases and packing materials shall be deemed to form part of the Goods.
- 16 DEFAULT**
If the Supplier fails to deliver the Goods or perform the Services or any portion thereof on or before the Delivery Date, or delivers Goods or performs Services which do not comply fully with the terms of the Contract, or otherwise commits any breach of the Contract, the Company shall be entitled, at its election:
16.1 to cancel the Contract, either wholly or in part; or
16.2 notwithstanding the Supplier's default, to enforce the terms of the Contract and, if necessary, to sue for specific performance and/or only make payment in respect of the portion of the Goods or Services actually provided; or
16.3 in the case of Goods or Services which do not comply with the terms of the Contract, to reject such Goods or Services and to call upon the Supplier to remedy same by a date fixed by the Company, failing which the Company shall be entitled to procure Goods or Services of the same or similar description from another supplier;
in each case entirely without prejudice to the Company's right to claim from the Supplier any penalties or damages sustained by the

Company as a consequence of the Supplier's breach and/or the cancellation of the Contract. No receipt which the Company may have given for the Goods shall prejudice or limit the Company's rights hereunder and where Goods are rejected, they shall be held at the risk and expense of the Supplier who, before such Goods are released, shall refund any payments made and pay all damages incurred by the Company in respect of such Goods.

17 PAYMENT

- 17.1 Unless otherwise agreed in writing between the Parties, the Company shall pay the Supplier the Price within 30 days from date of receipt of the Supplier's month-end statement, failing which the Supplier shall be entitled to levy interest on any amounts outstanding from due date until date of final payment at the legal rate for *mora* interest applicable in the jurisdiction in which the Company is incorporated.
- 17.2 Payment of the amount due into the bank account nominated by the Supplier in writing will constitute discharge of the Company's payment obligation under the Contract.

18 ACCESS TO RECORDS

Each Party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to inspect the books, records and charts of the other Party to the extent necessary to verify any statement, charge or computation made pursuant to the Contract.

19 PROGRESS AND INSPECTION OF GOODS AND SERVICES

The Company's Representative shall have the right to inspect all Goods and/or check the progress of Services at all reasonable times and to reject Goods and/or Services that do not comply with the terms of the Contract. Any inspection, checking, approval or acceptance given on behalf of the Company shall not relieve the Supplier from any obligation under the Contract.

20 PART PAYMENT

Where the Company pays part of the Price on conclusion of the Contract or before any work is commenced by the Supplier, and/or where the Company pays part of the Price at various times or stages during the Contract (whether such payments are made in advance or arrears) then such payments are to be regarded as part payments and not deposits, and title in any materials procured or manufactured by Supplier for the purposes of the Contract shall pass to the Company to the extent of the value of such payments with effect from the date thereof.

21 SUSPENSION

If the Supplier suspends or delays the performance of its obligations under the Contract, or evidences its intention to do so, the Company shall be at liberty to give the Supplier, its liquidator, receiver, manager or assignee, as the case may be, notice requiring the performance of the Supplier's obligations to be proceeded with and in case the Supplier or its liquidator, receiver, manager, or assignee does not within 7 days proceed with such performance to the satisfaction of the Company, no further sums of money shall be paid by the Company on account of the Contract and the Company may enter upon and take possession of the Goods wherever situated and appoint any other person to provide the Goods or Services contemplated in the Contract.

22 VARIATIONS

- 22.1 The terms and conditions of the Contract shall not be varied except by written agreement, between the Parties.
- 22.2 The Supplier shall not vary any of the Goods or Services, except as directed in writing by the Company, but the Company shall have the right, from time to time, by notice in writing to instruct the Supplier to add to or omit, or otherwise vary the Goods or Services, and the Supplier shall, subject to clause 22.3, 22.4 and 22.5 carry out such variations and be bound by the same terms and conditions, so far as applicable, as though the said variations were stated in the Contract.
- 22.3 Where the Supplier receives any instruction from the Company which would occasion an amendment to the Price, the Supplier shall, with all possible speed, notify the Company to that effect giving the amount of any such amendment, ascertained at the same level of pricing as that contained in the Contract.
- 22.4 If, in the opinion of the Supplier, any instruction is likely to prevent the Supplier from fulfilling any of its obligations under the Contract it shall so notify the Company.
- 22.5 After receiving such notice/s from the Supplier, the Company shall decide whether or not the variation shall be carried out and shall confirm its instruction to proceed with the variation/s in writing. Until the Company so confirms its instruction it shall be deemed not to have been given.

23 INTELLECTUAL PROPERTY

- 23.1 The Supplier warrants that the subject of the Contract does not infringe any intellectual property rights and hereby indemnifies and holds harmless the Company against any loss, damages or expense sustained by the Company as a consequence of any breach of this warranty.
- 23.2 All intellectual property rights owned by each Party at the date of conclusion of the Contract remain the property of that Party and nothing in the Contract is intended to transfer any ownership of such intellectual property rights.
- 23.3 The Supplier acknowledges and agrees that all intellectual property rights created or acquired by the Supplier pursuant to or for the purpose of the provision of the Goods or Services shall vest exclusively in the Company without compensation and that the Company shall be entitled to use or dispose of such intellectual property rights in its sole and absolute discretion.
- 23.4 Any specifications, plans, drawings, patents or designs supplied by the Company to the Supplier in connection with the Contract shall remain the property of the Company and any information derived therefrom shall be regarded by the Supplier as secret and confidential and shall not, without the consent in writing of the Company, be published or disclosed to any third party, or made use of by the Supplier except for the purpose of implementing the Contract.

24 FORCE MAJEURE

- 24.1 "**Force Majeure Event**" means an exceptional event or circumstance including war, terrorism, rebellion, insurrection, riot, promulgation of Government laws, epidemic, strike or lockout by persons other than the employees of the Supplier or the Supplier's subcontractors, and natural catastrophes such as earthquakes or hurricanes, provided that the exceptional event or circumstance is one which:

- 24.1.1 is beyond the affected Party's control;
- 24.1.2 such Party could not reasonably have provided against, avoided or overcome; and
- 24.1.3 is not substantially attributable to the affected Party.
- 24.2 If either Party is unable to perform its obligations in terms of the Contract by virtue of a Force Majeure Event ("**the Affected Party**"), then the Affected Party's obligations will be suspended for as long as and to the extent that the event or circumstance continues to make performance impossible, provided that the Affected Party has given notice of the disability to the other Party within 7 days of the Affected Party becoming aware of the Force Majeure Event.
- 24.3 The Company will not be obliged to pay for any Services or Goods not provided while the Supplier's obligations are suspended in terms of clause 24.2.
- 24.4 Subject to clause 24.5, the Affected Party shall be entitled to a reasonable extension of time for completion of its obligations but shall not be entitled to be paid any additional costs as a result of the Force Majeure Event.
- 24.5 If the Force Majeure Event continues for a period exceeding 90 days, either Party may terminate the Contract on written notice to the other Party, provided that the obligation which the Affected Party is unable to perform is material to the performance of the Contract.
- 25 **LIEN**
The Supplier warrants that the Goods are not subject to any lien or any other right of retention and that the Supplier has the right to transfer ownership and possession in the Goods to the Company.
- 26 **RESPONSIBILITY FOR INFORMATION**
The Supplier shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by it.
- 27 **ASSIGNMENT**
- 27.1 The Company may cede, delegate, assign and/or otherwise make over all or any of its rights and/or obligations under the Contract to any other company in the Illovo Group.
- 27.2 The Supplier shall not be entitled to cede, assign or make over any of its rights and obligations under the Contract to any other person without the prior written consent of the Company.
- 27.3 The Supplier shall not be entitled to sub-contract the carrying out of any of its responsibilities under the Contract to any other person without the Company's prior written consent. To the extent that the Supplier procures goods and/or services from third parties to enable it to carry out its obligations to the Company under the Contract, the Supplier shall nevertheless remain solely responsible for all work done and goods supplied to it by all third parties.
- 28 **STATUS OF THE COMPANY**
- 28.1 The Supplier acknowledges that the Company may from time to time, at its election, act either as principal or as agent for another entity in the Illovo Group when procuring Goods or Services.
- 28.2 To the extent that the Company acts as principal and procures the Goods or Services for onward supply to another entity in the Illovo Group, it is recorded and agreed that the Company enters into the Contract for its own benefit and also for the benefit of such other entity and that, notwithstanding that such other entity is not a party to the Contract, it shall be entitled at any time to accept and enforce the terms of the Contract, in which event all references to "Illovo" herein should be read as a reference to such entity.
- 29 **FREE ISSUE MATERIALS**
Where the Company issues materials free of charge to the Supplier, such materials shall be and remain the property of the Company. The Supplier shall maintain all such materials in good order and condition subject, in the case of tooling patterns and the like, to fair wear and tear, and shall use such materials solely in connection with the Contract. Any surplus materials shall be disposed of at the Company's discretion. Waste of such materials arising from bad workmanship or negligence of the Supplier shall be made good at the Supplier's expense.
- 30 **GENERAL CONDITIONS IN THE TENDER**
No conditions submitted or referred to by the Supplier when tendering shall form part of the Contract unless agreed to in writing by the Company and incorporated in the Contract by express reference.
- 31 **HEALTH AND SAFETY**
- 31.1 The Supplier must comply with the Company's policies and procedures regarding health, safety and the environment and ensure that its agents and subcontractors do likewise.
- 31.2 In addition, the Supplier must comply with all relevant health, safety and environmental laws and regulations applicable in the country in which the Goods are delivered or Services rendered.
- 32 **CONTINUOUS IMPROVEMENT**
The Supplier shall use all reasonable endeavours to reduce costs and improve efficiencies in the performance of its obligations under the Contract and shall, upon request therefor, make itself available to meet with the Company to discuss its progress in this regard.
- 33 **CONFIDENTIALITY**
All information contained in the Contract that is designated as being confidential information of the Company, or which by its nature constitutes proprietary or confidential information of the Company, shall not be disclosed by the Supplier to third parties without the prior written consent of the Company, save where such information is already lawfully in the public domain, or where there is a legal obligation to disclose it.
- 34 **ETHICAL BUSINESS PRACTICES**
The Supplier undertakes that its business operations are, and will continue to be, conducted in accordance with the principles set out in the Illovo Group Code of Conduct and Business Ethics, a copy of which is available at www.illovosugarafrika.com and which the

Supplier confirms that it has read and understood.

35 ANTI-BRIBERY AND CORRUPTION

Undertakings, Representations and Warranties

- 35.1 The Supplier warrants and undertakes to the Company that:
- 35.1.1 it is and will remain in compliance with the laws of the Republic of Zambia applicable to the services it will perform under the Contract;
 - 35.1.2 it will not, nor will any of its officers, employees, shareholders, representatives, subcontractors or agents ("**Associated Parties**"), directly or indirectly, either in private business dealings, or in dealings with the public sector, offer, give or agree to offer or give (either itself or in collaboration with another or others) any payment, gift, or other advantage with respect to any matters which are the subject of the Contract which:
 - 35.1.2.1 would violate any anti-corruption laws or regulations applicable to the Supplier (or which would apply if for these purposes the Supplier were assumed to be a UK person or UK commercial organisation as contemplated in the UK Bribery Act, 2010) or to the Company; or
 - 35.1.2.2 is intended to, or does, influence or reward any person for acting in breach of an expectation of good faith, impartiality or trust, or which it would otherwise be improper for the recipient to accept; or
 - 35.1.2.3 is made to, or for, a Public Official with the intention of influencing such official, and/or of obtaining or retaining an advantage in the conduct of business; or
 - 35.1.2.4 a reasonable person would otherwise consider to be unethical, illegal or improper. (any one of 35.1.2.1 to 35.1.2.4 being a "Corrupt Act"); and
 - 35.1.3 it is not, and has not at any time been, and to the best of its knowledge and belief, none of the Associated Parties is or has at any time been, engaged in or charged with or investigated for, or found by a court in any jurisdiction of having engaged in a Corrupt Act.
- 35.2 For the purposes of the Contract, "**Public Official**" includes any individual holding, or acting on behalf of an individual holding a legislative, administrative or judicial office, including any individual employed by or acting on behalf of a public agency, a state-owned or public enterprise, a public international organisation, any federal or regional government department or agency, any political party, any candidate for political office or a relative or associate of any such individual.
- 35.3 Save as disclosed by the Supplier in writing to the Company in relation to the Contract, neither the Supplier nor, to the best of its knowledge and belief, any of its Associated Parties or members of their families are Public Officials or Associated Parties of a customer or potential customer of the Company.
- 35.4 Any undertakings, warranties or representations that are made "to the best of the Supplier's knowledge and belief" are made on the basis that the Supplier has taken reasonable steps to satisfy itself as to the accuracy of such undertaking, warranty or representation.
- 35.5 Anti-Corruption Training
The Supplier and its Associated Parties shall undertake (at the Company's cost) such anti-corruption training as the Company may reasonably require.
- 35.6 Books, Records and Audit
During the term of the Contract and for 2 years thereafter, the Supplier shall:
- 35.6.1 properly and accurately record in its books and records (whether in paper or other form) all transactions which relate in any way to the Contract or to services provided by the Supplier under it ("**Transaction Records**"), which shall be retained for 5 years after the end of the period to which they relate; and
 - 35.6.2 upon written request from the Company, make available to an accountant from an internationally recognised firm of public or chartered accountants (or equivalent) appointed by the Company, its books and records including the Transaction Records and/or any other information as the Company may reasonably require in order to perform an audit to assess the Supplier's compliance with this clause 35. The Supplier shall provide all reasonable assistance, including access to premises, documents (whether in paper or other form) and persons, as the accountant may reasonably need in order to perform the audit and to report to the Company regarding the outcome of the audit. The Company will take reasonable steps to ensure that all confidential information provided to it by the accountant referred to in this clause is kept confidential, save to the extent that disclosure is required to satisfy an order of a Court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time or in any proceedings arising out of any breach by the Supplier of its obligations.
- 35.7 Demands from Public Officials / Others
The Supplier shall immediately notify the Company of any demands for illegal payments from Public Officials or other third parties, and neither it nor its Associated Parties will make any such payments, unless an individual's personal safety is at risk.
- 35.8 Breach and Investigation
Without prejudice to clause 14 or any other rights accorded to the Company in terms of the Contract, if the Company reasonably considers that there has been a breach by the Supplier of any of the provisions of this clause 35 or of Illovo Group's Code of Conduct and Business Ethics, the Company shall be entitled:
- 35.8.1 to investigate the suspected breach ("**Investigation**"), the Supplier being obliged to provide all information and assistance reasonably requested by the Company in connection with such Investigation, and hereby undertaking not, without prior written consent from the Company, to meet or communicate with any customers or potential customers in connection with the Company's products and services during the course of the Investigation; and/or
 - 35.8.2 if such breach is incapable of remedy, or where it is capable of remedy but is not remedied within 7 days after the date of delivery of written notice calling upon it to remedy such breach, to terminate the Contract upon written notice to the Supplier.
- 35.9 Introductions and Commission
- 35.9.1 Where applicable, the Company shall be entitled to disclose to any customer the fact that commission or other remuneration is payable to the Supplier, and the amount thereof, at such time and in such manner as may be determined by the Company in its sole discretion.
 - 35.9.2 The Supplier shall not introduce any customer pursuant to the Contract who is a Public Official and the Company shall be under no obligation to make any payment of commission to the Supplier in relation to any customer who is a Public Official.