

Organic Farm Foods Limited
General Conditions of Purchase

In these Conditions unless the context otherwise requires:

Conditions means the terms and conditions set out in this document and any special terms and conditions agreed in writing between OFF and the Supplier;

Contract means the Order and the Supplier's acceptance of the Order incorporating the Conditions;

Delivery means delivery of the Produce to OFF in accordance with OFF's delivery instructions whether given in the Order or separately;

Group means in relation to any company that company and every other company which from time to time is a subsidiary or holding company of that company or a subsidiary of any such holding company and the terms "subsidiary" and "holding company" shall have the meanings given to them by Section 1159 of the Companies Act 2006;

Incoterm(s) means standard international trade and commerce term(s) included in the Incoterms 2000 published by the International Chamber of Commerce as revised from time to time;

OFF means Organic Farm Foods Limited (incorporated in England and Wales registered number 02061388) whose registered office is Buckle Street, Honeybourne, Evesham, Worcestershire WR11 7QH, England;

Order means OFF's written instructions requesting the supply of the Produce incorporating these Conditions;

Order Acknowledgment means the Supplier's written acceptance of OFF's Order;

Price means the price as specified in the Order;

Produce means any organically produced fruit, vegetable or salad produce agreed in the Contract to be sold or supplied by the Supplier to OFF (including any part or parts of them);

Produce Legislation means any applicable statute, statute rule, order, directive, regulation or other instrument having force of law (including any directive or order promulgated by any competent supra-national body), all British and European standards, UKAS (United Kingdom Accreditation Service) and all other legislation for the time being in force relating without limitation to organic production, the labelling of organic products and the importation of organic products;

Specification means OFF's specifications or stipulations for the Produce, including without limitation any specifications or stipulations relating to raw material, notified in writing to the Supplier;

Supplier or you means the person firm or company named on the Order selling or agreeing to sell the Produce;

Out of Specification Produce means any Produce identified by OFF as not conforming in every respect with the Order or the Produce Legislation in accordance with clause 3.6; and

Working Day means any day other than Saturday, Sunday or public holidays in England and Wales between OFF's normal business hours of 08.00(GMT) and 17.00(GMT).

1 AGREEMENT

1.1 Subject to the Supplier's acceptance of the Order in accordance with clause 2 you agree to supply the Produce to OFF subject to these Conditions which together with the terms of the Order shall govern the sale and supply of all Produce to OFF.

1.2 These Conditions, the terms hereof, and the Order once accepted by the Supplier in accordance with clause 2 shall constitute the entire agreement between us. No purported variation (whether oral or written) from these Conditions shall be binding unless in writing signed by a duly authorised officer of OFF. Neither your employees nor your agents have authority to materially vary, add to or depart from these Conditions or to make any representations in relation to the Produce sold or any services provided hereunder.

2 ORDER PROCEDURE

2.1 Each Order shall be deemed to be an offer by OFF to purchase the Produce subject to these Conditions and no Order shall be accepted until you either expressly by issuing an Order Acknowledgement, or impliedly by fulfilling the Order in whole or in part accept the offer.

2.2 No terms or conditions endorsed upon, delivered with or contained in any quotation, the Order Acknowledgement or other acceptance of order, specification or similar document originating from the Supplier shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

3 SPECIFICATIONS, QUALITY TESTS, REJECTION, CERTIFICATION, HANDLING

3.1 The Produce and its packaging must conform in all respects to:

- (a) the Order;
- (b) the Specification;
- (c) all relevant Produce Legislation;
- (d) all other relevant non –organic certification standards including (without limitation) Eurepgap; and
- (e) the provisions contained in these Conditions.

3.2 You must ensure that the Produce and the premises and facilities in which they are stored, packed and delivered comply with all relevant Produce Legislation. This includes, without limitation, requirements concerning grade, composition, quality, quantity, product description and the use of artificial fertilisers and pesticides.

3.3 The Produce must be free of contamination from genetically modified organisms ("GMOs"), their derivatives and other contaminants. You shall take all reasonable steps to prevent contamination of the Produce during production, processing, storage and transport.

3.4 OFF may, at any time and at its own cost, test the Produce to assess the levels of artificial fertiliser and pesticide residues on or in the Produce and the presence of GMOs and OFF reserves the right to reject any Produce found to contain GMOs and/or exceed the levels of residue specified in the Specification or where the Specification is silent under the Produce Legislation. In the event that OFF has already sold the Produce onto its customers, you shall be liable for any losses or liability of any kind incurred or suffered by OFF's customers.

3.5 OFF will notify you as soon as reasonably practicable if it:

- (a) becomes aware that the Produce contains GMOs or exceeds the required organic levels of residue detection; or
- (b) receives or is notified of any complaints from its customers or consumers of the Produce concerning the same.

3.6 OFF shall conduct an inspection of all Produce delivered to its premises to check that the Produce supplied conforms in every respect with the Order and the Produce Legislation.

- 3.7 If there is any Out of Specification Produce, OFF may reject all the Produce and cancel the Order at no cost to OFF and OFF shall have no liability to the Supplier in respect of such Order.
- 3.8 OFF shall send a quality report to you by email or fax within two (2) Working Days of the inspection. The quality report shall state the amount and nature of any Out of Specification Produce supplied.
- 3.9 Any Produce or Out of Specification Produce rejected by OFF under Clause 3.7 above (the “**Rejected Produce**”), shall be stored by OFF until disposed of in accordance with your instructions. If you fail to give us disposal instructions within seven (7) Working Days OFF shall be entitled to dispose of the Rejected Produce in any manner it sees fit. You shall be liable for the reasonable costs and expenses incurred by OFF in storing and disposing of the Rejected Produce in this clause 3.9 (including without limitation storage, delivery and insurance).
- 3.10 Any Out of Specification Produce that is not rejected by OFF under Clause 3.7 above (the “**Accepted Out of Specification Produce**”) shall, subject to your prior written consent (such consent not to be unreasonably withheld or delayed), be graded through OFF’s packing facility. You shall be liable for the reasonable costs and expenses incurred by OFF in grading the Accepted Out of Specification Produce. OFF shall send a grading report to you by email or fax within two (2) Working Days of the grading confirming the applicable grades of the Accepted Out of Specification Produce and the appropriate adjustment to be made to the Price to take account of such grading.
- 3.11 OFF shall comply with your reasonable request to either sell or otherwise dispose of any Accepted Out of Specification Produce but you shall be responsible for all reasonable costs and expenses incurred by OFF in relation to the sale or disposal of such Accepted Out of Specification Produce.
- 3.12 You shall immediately, and in any event no less than seven (7) Working Days prior to the date of Delivery, inform OFF if you become aware that the Produce does not conform in any way with the Order and/or the Produce Legislation and you shall be liable for the reasonable costs and expenses incurred by OFF as a result of you failing to inform OFF of the same. If you inform OFF no less than seven (7) Working Days prior to the date of Delivery that the Produce does not conform with the Order and/or the Produce Legislation and give all relevant details of such non-conformance, OFF may request its customer for such Produce to issue a temporary specification to allow such Produce to be sold to such customer and OFF reserves the right to charge you for any additional costs arising from obtaining this temporary specification.
- 3.13 You shall promptly keep OFF informed of any matter of which you are or reasonably should, as supplier of the Produce, be aware relating to the storage, transportation, or handling of the Produce by OFF and the actions you have taken or propose to take and those that OFF should take in relation to such matters.
- 3.14 Any disputes arising out of or in connection with the provisions of this clause 3 shall be resolved in accordance with Clause 12 (Disputes).
- 3.15 You shall provide OFF with all valid grower and supply chain certification prior to the delivery of the Produce. In the event that the Produce is delivered prior to receipt by OFF of the certification, the Produce will be placed on hold until such time as the certification is provided, which may lead to a claim on short shelf life produce. OFF shall not be obliged to accept or pay for any Produce which is delivered without the necessary certification. You are bound to inform us of any changes affecting your certification status. OFF reserves the right to quarantine all Produce delivered and cancel all future orders in the event that you fail to notify OFF of any such changes.
- 3.16 Where you are exporting the Produce to OFF, an original Certificate of Inspection for Import of Products from Organic Production (COI) from a body recognised by the Department for Environment, Food and Rural Affairs (Defra) relating to each consignment shall be presented for submission and endorsement by the designated UK authority (either the Port Health Authority (PHA) or Local Authority (LA)) in advance of the relevant consignment’s arrival at the port of entry. Where you are exporting the Produce from a country outside the EU, the COI shall be from the certifier in the country from which the Produce is exported. OFF shall keep originals COIs for a period of three (3) years after Delivery.
- 3.17 You shall register with the Supplier Ethical Data Exchange (Sedex) and complete an on-line self assessment prior to Delivery and provide evidence of such registration on Delivery.
- 3.18 All Produce is to be packed into either new strong and clean cardboard or re-usable boxes specified by OFF which comply with accepted phytosanitary rules. All Produce is to be received on strong wooden pallets that are fit for purpose. Wooden crates are prohibited unless by prior written agreement with OFF. All pallets shall have the top layer covered.
- 3.19 All packing materials should be marked with (minimum):
- your identity;
 - identity of the grower of the Produce;
 - identity of the transporter of the Produce;
 - Produce description;
 - origin of Produce;
 - commercial specifications of the Produce (including the class, grade, quality and quantity); and
 - organic certification
- 3.20 In order to ensure all precautions are reasonably taken with regard to allergens, you should inform OFF on receipt of the Order if the packing facility used for OFF Produce will be handling nuts, celery or celeriac, or dealing with sulphites.
- 4 SOIL ASSOCIATION’S ORGANIC STANDARDS: ETHICAL TRADE**
- 4.1 You shall comply with all provisions applicable to a producer of organic produce contained in the Soil Association’s Organic Standards on Ethical Trade (the “**Standards**”) attached at Schedule 1 and as amended from time to time by the Soil Association.
- 4.2 In the event that you become aware that any of the Produce has been grown, stored, packed or transported in contravention of the Standards, you shall promptly, and in writing, notify OFF with full details of the contravention.
- 4.3 You shall on request allow or procure for OFF and/or its authorised representatives access to any premises, location or facilities where the Produce is grown, stored, packed or transported and to all relevant documentation for the purposes of carrying out an audit of your compliance with the Contract and the Standards.

5 PAYMENT TERMS

- 5.1 You shall invoice OFF on or after Delivery.
- 5.2 OFF shall pay you in the agreed currency within 30 days of Delivery or the invoice date, whichever is the later, together with VAT where applicable at the appropriate rate, unless otherwise expressly agreed in writing.
- 5.3 Without prejudice to any other right or remedy, OFF reserves the right to set off any amount owing at any time from you or any company within your Group to OFF against any amount payable by OFF to you under the Contract.

6 DELIVERY

- 6.1 Delivery shall take place strictly in accordance with OFF's Delivery instructions whether given in the Order or separately.
- 6.2 Time of Delivery is of the essence of the Contract. OFF shall be under no obligation to accept Delivery before the specified Delivery time, but reserves the right to do so.
- 6.3 Unless otherwise stipulated in the Order, Produce shall only be accepted by OFF within the stipulated Delivery windows. This time frame applies from 07.00 (GMT) to 15.00 (GMT) Monday to Friday. Any Produce received on Saturday, Sunday or public holidays in England and Wales shall be subject to a time frame of 08.00 (GMT) to 12.00(GMT) and shall be treated as if it delivered on the next Working Day. All Produce received outside of the stated time frames shall be deemed to be delivered on the next Working Day.
- 6.4 If for any reason, OFF is unable to accept Delivery on or after the agreed Delivery date, you will arrange the storage of the Produce, safeguard it and take all reasonable steps to prevent its deterioration until Delivery. In cases where clause 10 (termination) provisions do not apply, OFF shall be obliged to pay you reasonable costs of storage in accordance with the terms specified in these Conditions.
- 6.5 Produce should be cooled rapidly to the required storing, transport and arrival temperature stipulated in the Specification. OFF will endeavour to contact you if any Produce is received outside this temperature regime. OFF reserves the right to reject any Produce arriving outside the stated temperature regime. Temperature trackers should be included with all sea freighted Produce. A minimum of one (1) tracker is required per container, placed within the boxes of Produce. Pallets containing trackers must be clearly marked and listed on the shipping manifest to allow prompt retrieval.

7 RISK AND TITLE

- 7.1 The Produce shall remain at your risk until Delivery. Ownership of the Produce shall pass to OFF on Delivery.

8 FORCE MAJEURE

- 8.1 Neither party shall be liable to the other for any loss, damage, injury or expense whatsoever arising or resulting from force majeure events being events beyond the affected party's reasonable control including without limitation acts of God, government orders, strikes, lock outs or other industrial action, accidents, war, civil commotion, and every Contract shall be subject to such cancellation, variation or suspension by the parties as may reasonably be necessary as a result of the force majeure event.

9 INTELLECTUAL PROPERTY

- 9.1 You acknowledge that any and all trade marks, design

rights, copyright and other intellectual property rights applied to the Produce, its packaging or related publicity materials are and shall remain the exclusive property of either OFF or its licensees. You undertake to OFF that you shall not do any act which may infringe or adversely affect the said intellectual property rights.

- 9.2 You undertake to inform OFF immediately upon becoming aware of any infringement of the said intellectual property rights and shall fully co-operate with OFF in respect of any action which OFF or its licensees may take in order to protect the said intellectual property rights.

10 TERMINATION

- 10.1 OFF shall be entitled, without prejudice to any other right or remedy, to immediately terminate the Contract or suspend any further acceptances of deliveries to it without any liability to you by giving notice in writing to you, if:

- (a) you have a bankruptcy order made against you or make an arrangement or composition with your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver or manager, administrator or administrative receiver appointed of your undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for your winding-up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency;
- (b) you commit a material breach of your obligations under these Conditions which is incapable of remedy;
- (c) you breach any provisions applicable to a producer of organic produce contained in the Standards;
- (d) you fail to remedy, where it is capable of remedy, or persist in any breach of any of your obligations under these Conditions after having been required in writing to remedy or desist from such breach within a period of seven (7) days; or
- (e) you cease or threaten to cease to carry on business; or
- (f) your financial position deteriorates to such an extent that in the reasonable opinion of OFF the chances of you adequately fulfilling your obligations under the Contract has been placed in jeopardy.

- 10.2 The termination of the Contract, however arising, shall be without prejudice to the rights and remedies of either party accrued prior to termination. Any of these Conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

11 CONFIDENTIALITY

- 11.1 You will keep confidential and will not disclose to any third party (except sub-contractors accepting a like obligation of secrecy, to the extent necessary for the

performance of the sub-contract) all information given by us in connection with the Produce/any Contracts, except that information which (a) is already or comes into the public domain without breach of this clause; and/or (b) can be shown to have been in your lawful possession prior to receipt from OFF.

12 DISPUTES

12.1 Should OFF have a bona fide dispute in respect of the quality or quantity of all or some of Produce delivered then OFF shall notify you of the nature of such dispute in writing within 7 days of receipt of the Produce giving all relevant details. Any Produce not so disputed within such 7 day period shall be deemed to be accepted by OFF and payment shall be made in accordance with these Conditions. If OFF notifies you in writing that it disputes all or some of the Produce delivered in accordance with this clause 12.1 OFF shall be entitled to withhold payment of the amount relating to the Produce in dispute but shall nevertheless pay for the undisputed Produce in accordance with these Conditions. The parties shall cooperate in good faith to resolve the dispute over the Produce as amicably and promptly as possible and on settlement of any dispute OFF shall make the appropriate payment in accordance with these Conditions and with respect to any such settled amount any agreed period within which payments are due to be made shall commence on the date on which the dispute is resolved.

13 ASSIGNMENT/THIRD PARTIES

13.1 You shall not be entitled to assign the Contract or any part of it without the prior written consent of OFF. OFF may assign the Contract or any part of it to any person, firm or company. No person who is not a party to the Contract shall have the right to enforce any term of the Contract.

14 WAIVER

14.1 No waiver by OFF of any breach of these Conditions by you shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

15 NOTICES

15.1 Any demand or notice in respect of the Contract shall be in writing and may be served personally, or by express courier post or facsimile transmission. Any such demand or notice delivered personally shall be deemed to have been received immediately upon delivery, by post within two Working Days following the date of posting and by facsimile transmission upon confirmed receipt.

16 LAW

16.1 These Conditions and all other express terms or every agreement between you and OFF concerning the supply of Produce shall be governed by and construed in all respects in accordance with English law and, subject only to clause 12.1, you agree to submit to the exclusive jurisdiction of the courts of England & Wales in relation to any matter arising hereunder in dispute. If any provisions of these Conditions shall be determined by a Court of competent jurisdiction to be void or unenforceable the other terms and conditions shall remain unaffected and enforceable.

SCHEDULE 1

Soil Association Organic Standards - Ethical Trade