

General Terms & Conditions of BayWa Agrarhandel GmbH (last modified: April 2018)
(hereinafter referred to as the "Trader")

Section 1 General

- The terms and conditions set out in this document govern all offers, deliveries, services and associated legal transactions of the Trader. They do not apply to transactions with consumers in the meaning of Section 13 of the German Civil Code (BGB). Conflicting or different terms and conditions of the purchaser are not accepted.
- In as far as these terms and conditions contain a regulatory gap, the following shall apply in their respectively applicable versions:
 - for grains and oilseeds, the standard terms and conditions for the German grain trade,
 - for animal feed, the standard terms and conditions of the German grain trade and the Hamburg animal feed contract notes,
 - for fertilisers and pesticides, the standard terms and conditions for the German grain trade,
 - for field seeds, seeds and seed grain, the sales- and delivery terms for recognised agricultural seeds (AVLB Seeds),
 - for potatoes, the German terms and conditions for the potato trade (Berlin Accord),
 - for all other transactions, the standard terms and conditions for the German grain trade.
- Where contracts are not made in writing, the delivery note will serve as the confirmation letter. The subject matter of the contract is derived from this confirmation letter, unless the purchaser immediately objects.

Section 2 Delivery

- The Trader is permitted to make reasonable partial deliveries. If delivery on demand has been agreed, the purchaser must allow a reasonable period for delivery. Deliveries of up to 5% more or less than the contractually agreed quantities are deemed contractual fulfilment.
- The Trader is authorised to change compound feed or compound fertiliser without giving prior notice to the purchaser. The value-determining ingredients must be retained, however. Where a certain percentage composition has expressly been agreed, the Trader may only modify the composition with the purchaser's prior approval.
- If the purchaser is behind schedule in accepting or fulfilling orders, the Trader may, irrespective of its other statutory rights, put the goods in storage in its own or third party premises at the risk and cost of the purchaser, or dispose of the goods in a suitable way on account of the purchaser after a grace period of 7 calendar days.

Section 2a Deliveries not subject to VAT

If the delivery is not subject to VAT in accordance with Article 4 no. 1 b) in conjunction with Article 6 a) of the German VAT Act (UStG), the customer shall sign a confirmation of arrival and return it to the Company. The confirmation of arrival must be returned to the Company within 30 days from the handover of the object of the purchase by the Company or a third party acting on their behalf. If the Customer does not meet their obligation, VAT will be charged retrospectively. Ownership of the object of the purchase shall remain with the Company until the confirmation of arrival has been received and/or the VAT which has been charged retrospectively has been paid.

Section 3 Prices

- The Trader will perform their deliveries and services at the daily prices of the Trader, unless a fixed price has been agreed. All priced are plus VAT at the rate applicable on the delivery date.
- In the case of excess deliveries, 2% will be billed at the contract price and the remaining excess quantity at the daily price of the Trader on the day of the delivery.
- In the event that important parameters change after the contract is inception, such as freight costs, tariffs, penalty rates for ice, flood or low water, taxes, public levies or charges, the purchase price will be adjusted accordingly, unless adjustment is expressly excluded in the contract.

Section 4 Impediments to performance

- In the event that the Trader's contractual performance is temporarily impeded by an unforeseeable serious event for which the Trader is not at fault, such as unrest, strike or lock-outs and similar events in the country of origin, during transport or at the place of delivery, as well as in the case of impediments due to ice or similar force majeure events, or such an event affects an upstream supplier of the Trader, the performance period shall be extended for the duration of the impediment. If such unforeseeable and serious event for which the Trader is not at fault lasts for longer than one calendar month, the contract is deemed cancelled without compensation.
- If the Trader cites an impediment to performance, they shall notify the other party promptly and in writing after learning about the impediment or at the beginning of the performance period. The Trader will furnish the other party with evidence for the impediment to performance upon request.
- In the case of non-delivery or insufficient delivery to the Trader from an upstream supplier, the Trader is released from all or parts of its delivery obligations owed to the purchaser under the condition that the Trader acted diligently in making the necessary arrangements for the procurement of the deliverable goods. The Trader shall promptly notify the purchaser of the occurrence of such an event and the non-availability of the goods.

Section 5 Defects

- Defects that are readily apparent when conducting a proper inspection and assessment must promptly be notified to the Trader following delivery. The purchaser will otherwise not have any claims for defects of any kind, unless the Trader has fraudulently concealed the defect.
- Results of investigations concerning the intrinsic value of agricultural products and animal feed claimed to be defective will only be accepted by the Trader if the respective investigation is carried out by a LUFÄ (an accredited institute for agricultural investigations and research) or an accredited analysis institute on the basis of a representative sample obtained by a sworn sampler, the Trader, or jointly by the Trader and the Purchaser.
- If a defect concerning consumables is justified, the purchaser may only request a reduction in the purchasing price. This does not apply if the defect renders the good unsuitable for consumption.
- If a defect concerning items other than consumables is justified, the purchaser may only request retrospective fulfilment (subse-

quent improvement or replacement delivery). If retrospective fulfilment cannot be secured, the purchaser shall be entitled to a reduction in price or to withdraw from the contract.

Section 6 Packaging and shipping

- The goods are packaged to the customary standards at the cost of the purchaser. The purchaser must ensure immediate unloading upon delivery. The purchaser must return any pallets and returnable containers delivered to it in a ready-to-use condition and emptied of any residues within one month, or otherwise compensate the Trader for their value. Other packaging materials must be delivered to a waste disposal company, the address of which will be provided by the Trader upon request.
- Shipping is at the purchaser's risk, including where carriage paid is agreed. The Trader will, if requested, take out transport insurance with cover as required by the purchaser and at the purchaser's costs.
- Losses or damage incurred during rail transport must be claimed from the rail company and be confirmed in writing before accepting a shipment.
- Damages incurred during transport will not entitle the purchaser to decline acceptance of the Trader's delivery.

Section 7 Payment, current account and offsetting

- Payment must be made in the net invoice amount without any deductions upon receipt of the invoice, unless agreed otherwise. Payments are due upon receipt of an invoice.
- Payments made by cheque are not considered received on the date the cheque is received, but only after the cheque has been honoured irrevocably as payment; the same applies accordingly for payments made by direct debit.
- If the purchaser participates in the SEPA direct debit scheme, they shall be notified no later than one working day before their account is debited with the amount. The debiting of recurring payments of identical amounts shall be announced once a year.
- Sections 355 to 357 of the German Civil Code apply if the mutual payables stemming from the business relationship are paid into a current account. The payables resulting from the current account agreement will bear interest at customary bank interest rates. The Trader's account statements are deemed settlement statements. The balance is deemed accepted if no objection is raised within one month from receipt of the settlement statement.
- The purchaser may only offset their claims against receivables that are undisputed or legally established, unless the receivables arise from the same contractual relationship.

Section 8 Payment default

- Where delivery is made on the basis of payment terms, or on the basis of an agreed payment by a bill of exchange, receivables shall fall due for immediate payment if there are doubts about the purchaser's creditworthiness, and in particular if the purchaser ceases to make payments, bills of exchange or cheques are not honoured, or insolvency proceedings have been commenced over the purchaser's assets. The same applies if payment by instalments has been agreed and the purchaser is in default for an amount exceeding one instalment or defaults on the payment of another invoice due for payment.
- If the purchaser is in default of payment, the Trader may withhold any further deliveries and claim compensation of damages in lieu of performance or compensation for lost expenses. This will be without prejudice with regard to the right to withdraw from the contract.

Section 9 Statute of limitation

- The purchaser's contractual claims lapse after a period of one year from delivery. This is without prejudice with regard to Sections 438 para. 1 no. 2, 479 and 634a para. 1 no. 2 of the German Civil Code. If the Trader is liable under Section 10, the statutory limitation period continues to apply.
- The limitation period does not recommence in cases of defective subsequent performance.

Section 10 Liability

- The Trader's liability for damages to injury of life, limb or health for which the Trader is at fault is governed by the statutory provisions.
- The Trader's liability for damages resulting from wilful intent or gross negligence is governed by the statutory provisions. Essential contractual obligations are defined as obligations whose fulfilment renders the proper execution of the contract possible in the first place and on the observance of which the contracting party may rely. The Trader's liability for damages caused by slightly negligent breaches of essential contractual obligations is limited to the typical and foreseeable damage.
- The Trader's compulsory liability pursuant to the German Product Liability Act, as well as for the fraudulent concealment of a defect and for guaranteed properties, is unlimited.

Section 11 Retention of title

- The Trader retains title in goods and documents until full payment of all claims against the purchaser from the business relationship, including future claims, has been received. For transactions on a current account, the retention of title also applies as collateral for the outstanding balance.
- The goods subject to retention of title are processed for the Trader as the manufacturer without incurring any liabilities for the Trader. The Trader is entitled to (joint) ownership of the object produced by processing, irrespective of the time and degree of such processing. If the contractual object is processed, combined or amalgamated with other items not belonging to the Trader, the Trader will acquire joint ownership in the new object in the proportion corresponding to the value of the reserved object to the other processed objects at the time of processing. In the event that the purchaser acquires (joint) ownership in the goods subject to retention of title, irrespective of the preceding provision, by way of processing the object, the purchaser shall transfer (joint) ownership of the goods to the Trader and store these goods on behalf of the Trader. The purchaser hereby assigns any claims for surrender against third parties to the Trader. The goods are deemed goods subject to retention of title in the meaning of these provisions.
- The purchaser may only dispose of goods that are subject to retention of title during their ordinary course of business against cash payment or under retention of title. The purchaser is only permitted to pledge the goods or offer them as chattel mortgage with the express consent of the Trader and under the condition

of prompt surrender of any proceeds to the Trader for the purpose of making payment for and balancing of any outstanding balance at such time. The purchaser assigns all claims stemming from such disposal, regardless of whether the disposal takes place before or after processing, combining, etc., including all ancillary rights and potential claims against debt insurance, to the Trader upon entering into a contract. In the event the Trader only holds joint title in the goods, or if the goods are sold for a total price together with other goods in which the Trader does not hold title, the claim will only be assigned in the amount invoiced by the Trader to the purchaser for the corresponding proportion of the goods.

- The purchaser is authorised to collect claims stemming from the disposal until this authorisation is revoked. The Trader may in particular revoke this authorisation to collect claims if the purchaser fails to perform the payment obligations owed to the Trader. If the authorisation is revoked, this right will transfer to the Trader, including in the case of insolvency. The purchaser must grant the Trader access to the goods at any time, label the goods subject to retention of title as the Trader's property if requested and provide all information requested by the Trader. In the event of delayed payment, the purchaser must notify their customers of the transfer of such claims if requested to do so by the Trader. If the disposal results in the purchaser receiving bills of exchange or cheques from a third party, the purchaser assigns their claim from such bills of exchange or cheques to the Trader in the amount corresponding to the assigned claim from the disposal. The title in the bill of exchange or cheque document is transferred from the purchaser to the Trader, with the purchaser safeguarding this document on behalf of the Trader.
- The purchaser shall observe the rights of the Trader in the event of a third party accessing the goods that are subject to retention of title and notify the Trader of any such access in writing without undue delay.
- The purchaser must take out adequate insurance cover against the usual risks for as long as the Trader holds title in the delivered goods. The purchaser hereby assigns all claims for damages, in particular claims against insurance, to the Trader in the amount corresponding to the claim.
- The Trader shall release any overcollateralisation to the purchaser upon request. Overcollateralisation is deemed to exist if the value of the collateral exceeds the value of the collateralised claims by more than 30%. The Trader may release collateral at its sole discretion.

Section 12 Liens

- The purchaser's attention is directed to the fact that the Trader has a statutory lien over the fruit crop pursuant to the Law on Safeguarding Fertiliser and Seed Supplies from 19 January 1949 for all claims stemming from the delivery of fertilisers and recognised seeds or approved commercial seed.
- The purchaser hereby grants a lien over the crop in accordance with the Law on Safeguarding Fertiliser and Seed Supplies pursuant to Section 1 in relation to all claims from the sale of animal feed and pesticides.

Section 13 Applicable law, place of performance, place of jurisdiction

- The law of the Federal Republic of Germany applies.
- Place of performance for liabilities from the business relationship or individual contracts is the respective dispatch unit of the Trader. Place of payment is its registered office.
- Jurisdiction lies with the court responsible for the Trader's registered office.

Section 14 Arbitration tribunal

- Disputes shall be decided by the relevant arbitration tribunal of a German product or commodity exchange.
- The arbitration tribunal will be appointed pursuant to Section 1 of the Standard Conditions of Purchase of the German Grain Trade (Einheitsbedingungen im Deutschen Getreidehandel).
- The composition of the arbitration tribunal and the proceedings are determined on the basis of the arbitration tribunal rules of procedure of the respective product or commodity exchange.

Information concerning data protection

The data controller for the processing of data is BayWa Agrarhandel GmbH, Kleine Drakenburger Str. 7b, 31582 Nienburg, tel.: 05021/9220-0, email: info@baywa-agrarhandel.de. BayWa Agrarhandel GmbH processes personal information for the purpose of processing orders and for its own marketing purposes to the extent permitted by law. The data processing is not conducted to serve the interests of a third party; transmission of data to countries outside the EU is not intended. The recipients of the data are IT companies, service providers and courier services for the purpose of performing the contract, as well as credit agencies (i.e. Schufa) for the purpose of credit scoring in the case that the company is required to render a performance before receipt of the corresponding payment (i.e. purchase with invoice sent by mail, direct debit). The legal basis for the data processing is Article 6 para. 1 of Regulation (EU) 2016/679 (GDPR). The customer is not required to make the data available, but the data is required to perform the contractual obligations. Detailed information on data processing and the rights of data subjects can be found at www.baywa.com/baywa_agrarhandel_gmbh/datenschutz.