

NUTRIEN AG SOLUTIONS GENERAL TERMS AND CONDITIONS FOR SALE OF FERTILISER

Subject to any written agreement of the parties to the contrary, all Products sold or supplied by Nutrien Ag Solutions Limited (ACN 008 743 217) or any of its Related Bodies Corporate (each a "Company") to any third party ("Customer") are sold on the following terms and conditions ("Terms").

1. When is a Contract formed?

- 1.1 If the Customer requests or orders the sale or supply of any Product from the Company, whether in response to a quote or otherwise, the Customer will be taken to have offered to contract with the Company ("Order") on these Terms.
- 1.2 The Company reserves the absolute right to accept or reject (in whole or in part), any Order that may be placed by the Customer.
- 1.3 The Company is deemed to have accepted an Order made by the Customer under clause 1.1, if the Company:
 - (a) issues a written confirmation of the Order ("Contract Confirmation"); or
 - (b) commences the supply of the Product.
- 1.4 Unless otherwise agreed in writing between the Parties, upon acceptance of the Customer's order per clause 1.3, the Parties will enter into a contract comprised of the following:
 - (a) the Contract Confirmation;
 - (b) these Terms;
 - (c) the Trading and/ or Credit Account Terms (if any); and
 - (d) the relevant INCOTERM (being FCA or CPT) if applicable and indicated on the Contract Confirmation, (together, the "Contract").
- 1.5 If any provision(s) in two or more Contract Documents listed in clause 1.4 dealing with the same subject are inconsistent, then the provisions of the Contract Document earlier listed shall have priority and will prevail over the provisions of a document that is later listed, to the extent of that inconsistency.
- 1.6 The Contract applies to the supply of all Product set out in the Contract Confirmation by the Company to the Customer and governs all of the Parties' respective rights and obligations in relation to such supply.
- 1.7 The content of any marketing materials or other printed materials or websites shall not be binding upon the Company unless and until such document is expressly incorporated into the Contract following the mutual agreement of the Company and the Customer in writing.
- 1.8 The Company may amend these Terms at any time to apply to new Contracts. By continuing to request the supply of Product, the Customer agrees to the Terms applicable at the time that such request is made. It is the responsibility of the Customer to regularly check these Terms for any variations.

2. How is the price determined?

- 2.1 The price of the Products shall be the price appearing on the Contract Confirmation or otherwise agreed in a Contract Document.
- 2.2 All prices quoted by the Company to the Customer are valid for 24 hours or such other period specified by the Company only.
- 2.3 The Company reserves the right, by notice to the Customer at any time before Delivery, to increase the price of the Product and/or Order to reflect any increase in costs to the Company as a result of:
 - (a) any change in Delivery dates, quantities or specifications for the Products which is requested by the Customer; or
 - (b) any delay caused by instructions of the Customer or failure of the Customer to give the Company adequate information or instructions;

3. When is payment due?

- 3.1 The Products are to be paid for in accordance with the payment terms set out in the Contract Confirmation.
- 3.2 If any Customer fails to make payment on the due date as set out on the Contract Confirmation, the Company may:
 - (a) charge the Customer interest on the unpaid amount under the Contract at a rate of 18% per annum until payment is made in full;
 - (b) cancel the Contract and suspend any further deliveries to the Customer;
 - (c) require the Customer to deliver up to the Company any unused Products which remain unpaid and, if the Customer fails to do so immediately, the Company may enter the premises of the Customer or any third party where the Products are stored and repossess the Products; and/or

- (d) charge the Customer any costs of collection of any debt owing by the Customer to the Company (including legal costs on a full indemnity basis at the Company's election).

4. Can the Contract be varied or terminated?

- 4.1 Subject to clauses 4.2 and 11.4, either party may, in its sole discretion and for any reason whatsoever, cancel or terminate the Contract, or any part of it, by giving the other party 14 days' prior written notice.
- 4.2 If the Customer terminates the Contract, or any part of it, under clause 4.1, the Customer must pay to the Company as compensation for termination:
 - (a) the price for any Product already delivered;
 - (b) any costs or losses arising due to the termination of third-party contracts; and
 - (c) any loss the Company incurs in selling the Product for a lesser price as a result of the reduction in value of the Product.
- 4.3 The Company may terminate the Contract, or any part of it, immediately by giving written notice to the Customer, if the Customer commits a material breach of the Contract which is not remedied to the Company's satisfaction within seven (7) days of written notice from the Company.

5. What are the terms of Delivery?

- 5.1 The Company will make all reasonable efforts to have the Product delivered to the Customer on the date agreed between the parties, but the Company shall not be liable for any failure or delay in delivery or supply for any reason.
- 5.2 The delivery of the Product (**Delivery**) is deemed to have occurred:
 - (a) if the Product is to be collected by the Customer or its carrier from the Depot Location, when loading of the Product commences by the Customer or its carrier; or
 - (b) if the Product is to be delivered by the Company or its carrier to the Customer, when the Product is unloaded at the Agreed Delivery Location specified on the Contract Confirmation.
- 5.3 Delivery of the Product shall be made in accordance with the terms set out in the Contract Confirmation.
- 5.4 If not expressly specified in the Contract Confirmation or Contract, all Products will be supplied Ex Works from the Depot Location set out on the Contractor Confirmation with the Customer to arrange for Delivery. The Customer shall be responsible for all such costs.
- 5.5 Where specified in the Contract Confirmation, Delivery may be by instalments.
- 5.6 The Customer will inspect the Product at the time of Delivery and will immediately notify the Company in writing if the Product contains any defects, including without limitation with respect to quality or quantity.
- 5.7 To the extent permitted by law:
 - (a) the Company shall not be liable for any defects in the Product if the Customer does not notify the Company, in writing, within fourteen (14) Business Days of Delivery; and
 - (b) if the Customer has not given notice in accordance with clause 5.7(a) it shall be deemed to have waived any right to allege there is a defect in relation to the Product.

- 5.8 To be entitled to any remedy against the Company, the Customer must ensure that any Product subject to a claim by it pursuant to this clause 5 is properly protected and stored, and remains intact and unadulterated until settlement of the claim, and shall provide a physical sample of the Product to the Company on demand.

6. What Health and Safety Requirements apply to Delivery?

- 6.1 The Company may, at its sole discretion, decline to load, or permit loading of, any Product if the Company determines, at its sole discretion, that there is a risk the Product may be contaminated, the carrier is not suitable for carrying the Product, unsafe, and/or not in compliance with any applicable health, environmental or safety regulations.
- 6.2 At all times in connection with the performance of this Contract, the Customer must, and must procure that its agents, contractors or employees (including freight carriers):
 - (a) comply with any applicable health, environmental or safety laws and regulations, including the Chain of Responsibility Laws;
 - (b) follow all reasonably necessary directions of the Company's personnel or third-party personnel at the Depot Location;
 - (c) not create any hazard or cause any contamination on the Depot Location (including as a result of the condition of a vehicle).
- 6.3 If required, the Customer must, and must procure that its agents, contractors or employees (including freight carriers) undertake a site-specific induction for the Depot Location prior to Delivery in accordance with any induction policy provided to the Customer by the Company.

- 6.4 The Customer acknowledges that the Company has certain obligations under the Chain of Responsibility Laws in connection with the performance of this Contract, including as a consignor, packer, and/or loader.
- 6.5 Without limiting clauses 6.1 to 6.4 so as to facilitate each of the Company and the Customer complying with their respective obligations under the Chain of Responsibility Laws:
- each of the parties must co-operate with the other in relation to their compliance with the Chain of Responsibility Laws;
 - each of the parties must co-operate with the other in relation to the application of, and any audit of, a party's Chain of Responsibility Laws compliance policies; and
 - the Customer must comply with all directions from the Company and provide any information reasonably requested by the Company in connection with the compliance of any vehicle or any of the Customer's representatives with the Chain of Responsibility Laws in relation to the performance of this Contract.
- 6.6 Nothing in clause 6 limits or otherwise derogates from a party's own responsibility to ensure that it complies with the requirements of the Chain of Responsibility Laws applicable to that Party.
- 6.7 The Customer will not be reimbursed for any time spent by it or its agents, contractors or employees in complying with its obligations under this clause 6.
- 7. Quantity**
- 7.1 The Company will use all reasonable endeavours to supply all Product ordered. However, supply of Product shall be at all times subject to availability. The Company reserves its right to:
- not supply all or part of an Order or Product, at its absolute discretion; or
 - with the Customer's consent, supply an alternative product which has a similar nutrient analysis to the Product.
- 7.2 The weight of the Product shall be determined at the Depot Location prior to Delivery. The document issued by the Company which records such weight shall be final and binding as between the Parties, save in the event of fraud or manifest error.
- 7.3 If no allowed variance of volume of Product is expressly specified in the Contract, then without notice to the Customer the Company shall have the right to vary the quantity of the Product per Order to the lesser of:
- +/- 10 (ten) MTs; or
 - +/- five percent (5%) of the total quantity.
- 7.4 Where the quantity of Product Delivered has been varied as provided pursuant to clause 7.3, as evidenced by the Contract, the Price shall be adjusted in accordance with the variation on a pro-rata basis and a corresponding invoice issued by the Company in due course.
- 7.5 The Customer waives any claim for a shortfall in the quantity of Product supplied unless the Company is notified in writing of any shortfall in accordance with clause 5.6.
- 7.6 Any partial Deliveries may be individually invoiced to the Customer, but shall remain part of the original Contract and the Parties' respective obligations in relation to such shipments shall not be fully performed until such time as the entire contractually deliverable quantity has been physically delivered to the Customer and the Customer has paid all relevant invoices.
- 8. Quality**
- 8.1 The Customer acknowledges that in line with the usual nature and characteristics of the Product, the Product may be comprised of irregular and/or aggregated matter, and/or may involve blended components, and such matter and components are liable to separation and deterioration in whole or part during loading, transportation or storage.
- 8.2 At the Customer's request, and at the Company's discretion, the Company may blend Product supplied by it with any other product supplied by the Company or any other supplier, including but not limited to Flutriafol (**Blended Product**). Unless the composition of the Blended Product is expressly recommended to the Customer by the Company, the Company does not warrant that such Blended Product will be of merchantable quality, or suitable, appropriate or fit for the Customer's intended purpose.
- 9. What are the parties liable for under the Contract?**
- 9.1 Each party indemnifies the other, its employees and agents against losses for physical destruction of or damage to property, death, injury, illness or disease and any act or omission or breach of these Terms, arising out of or in connection with the performance of its obligations under the Contract, except to the extent caused or contributed to by the other party.
- 9.2 To the extent permitted by law, the maximum liability, if any, of the Company arising out of, or in connection with, the supply of the Product under this Contract, including for negligence, is limited at the Company's reasonable option to either:
- the replacement of the Product or the supply of equivalent Product;
 - payment of the cost of the replacement of the Product or of acquiring equivalent Product; or
 - refund of the Price for the Product paid by the Customer, and in any event and notwithstanding any other provision of the Contract, to an amount in aggregate of all claims up to 100% of the Price under the Contract.
- 9.3 Except to the extent expressly required by law, the Company makes no warranties or representations in relation to any goods or services supplied by the Company other than those expressly agreed with the Customer in writing, and all terms conditions, warranties and undertakings whether express, implied, statutory or otherwise relating in any way to the Product or the Contract are excluded.
- 9.4 The Customer warrants that it is not a consumer for the purposes of the *Competition and Consumer Act 2010* (Cth), and that it is acquiring the Product for commercial purposes.
- 9.5 Neither party will be liable to the other for any consequential, indirect or incidental loss, loss of profits, lost production or revenue, loss of anticipated savings, loss of opportunity, business reputation or damage to goodwill arising from or in connection with the performance of its obligations under the Contract.
- 9.6 Nothing in any Contract shall be construed as to exclude or limit the Parties' liability in relation to:
- death or personal injury caused by its negligence or that of its employees, agents or subcontractors;
 - fraud or fraudulent misrepresentation; or
 - any other liability that cannot be excluded or limited by applicable law.
- 10. When do title and risk transfer?**
- 10.1 Risk of damage to, or loss of, the Products shall pass to the Customer at the time of Delivery.
- 10.2 Title and ownership of the Products shall not pass to the Customer until the Company has received in cleared funds, payment in full of the Price of the Products delivered and any other sums which are or may become outstanding under the Contract or otherwise.
- 10.3 Until title to the Product(s) passes to the Customer in accordance with clause 10.2, the Customer is authorised to use the Product(s) in the ordinary course of its business but, where reasonable, must keep unused Products properly stored, protected and identified as the Company's property.
- 11. What if there is a Force Majeure Event?**
- 11.1 Subject to clause 11.2, neither the Customer nor the Company shall be liable to the other where their performance is prevented or delayed by a Force Majeure Event.
- 11.2 Neither Party is excused from an obligation to pay money because of a Force Majeure Event despite any other provision of the Contract.
- 11.3 The Party whose performance is prevented or delayed by a Force Majeure Event (the **Affected Party**) must:
- notify the other Party (the **Unaffected Party**) within five (5) Business Days of its occurrence;
 - provide evidence of the Force Majeure Event; and
 - use reasonable endeavours to avoid and mitigate the effects of the Force Majeure Event.
- 11.4 Where there is a Force Majeure Event, and subject to an Affected Party complying with the terms of clause 11.2:
- the Affected Party shall be entitled to claim for a suspension of its obligation to perform for a period equal to that of the ongoing effects upon performance of the Force Majeure, or thirty (30) calendar days, whichever is the lesser (the **Force Majeure Suspension**); and
 - the Unaffected Party must continue to perform any contractual obligations which are not prevented or delayed by reason of a Force Majeure and/or the Affected Party's non-performance.
- 11.5 If, following expiry of the Force Majeure Suspension, the Affected Party continues to be prevented or delayed by reason of the Force Majeure Event, then the Contract and/or any unperformed part of the Contract may be terminated by either Party by notice to the other, and neither Party will have any right and and/or remedies against the other Party arising as a result of such termination.

12. What if a Dispute arises?

- 12.1 In this clause "Dispute" means any dispute between two or more Parties that is in any way connected with the Contract.
- 12.2 No Party may commence any court proceedings (except proceedings seeking interlocutory relief) against the other party in respect of any Dispute unless it has first complied with this clause.
- 12.3 Any Party claiming that a Dispute has arisen must notify the other Parties in writing.
- 12.4 Within 7 Business Days after such notice is given, each Party must nominate in writing to the other parties a representative who is authorised to settle the Dispute on its behalf.
- 12.5 During the 20-day period after the nomination of representatives authorised to settle the Dispute has been made (or, if the Parties agree on a longer period, that longer period) each Party's nominee must use their best efforts to resolve the Dispute.
- 12.6 If the Dispute is not resolved within that time, the Dispute must be referred:
- for mediation in the capital city of the Jurisdiction in accordance with the Australian Commercial Disputes Centre (ACDC) Mediation Guidelines; and
 - to a mediator agreed by the parties, or if the parties do not agree on a mediator, a mediator nominated by the then current Chief Executive Officer of ACDC or that person's nominee (or if no such person is available or willing to nominate a mediator, by the then President of the Law Society or equivalent body of the Jurisdiction).
- 12.7 If the Dispute is not resolved by mediation, any party may commence court proceedings.

13. GST

- 13.1 If GST is payable on a Taxable Supply made under the Contract:
- the Customer shall pay as additional consideration an amount equal to the amount of GST payable on that Taxable Supply; and
 - the Company shall provide the Customer with a Tax Invoice before the Customer is required to pay any amount to the Company in relation to the Taxable Supply.
- 13.2 Where any indemnity or reimbursement under the Contract is based on any cost, expense or other liability, it shall be reduced by any input tax credit entitlement in relation to the relevant cost, expense or other liability.

14. How does the PPSA apply to the Contract?

- 14.1 If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.
- 14.2 This clause applies to the extent that the Company's interest in any Products supplied to the Customer under a Contract is a security interest.
- 14.3 The Customer agrees that the security interest is over the Products, any proceeds of the Products, and any product or mass that Products may be or become part of. The Products, proceeds and product of mass are referred to in this clause collectively as the "Collateral".
- 14.4 The Company may register a financing statement in relation to its security interest. The Customer waives its right under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing charge statement.
- 14.5 The Customer undertakes, if it disposes of any Collateral, that it will receive proceeds at least equal to the market value of the Collateral, and that it will not allow any other security interest to exist over those proceeds if that security interest could rank ahead of the Company's security interest. If such a security interest does arise despite the previous sentence, the Customer must ensure that it receives cash proceeds for the Collateral at least equal to the market value of the Collateral, and must immediately pay those proceeds to the Company in reduction of all amounts owing by the Customer to the Company.
- 14.6 The Company can apply amounts it receives from the Customer, towards amounts owing by the Customer to the Company in such order as the Company chooses.
- 14.7 The Company and the Customer agree not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in the circumstances required by section 275(7)(b) to (e) of the PPSA. The Customer agrees that it will only authorise the discloser of information under section 275(7)(c) or request information under section 275(7)(d) of the PPSA if the Company approves. Nothing in this clause will prevent any discloser by the Company that it believes is necessary to comply with its other obligations under the PPSA.
- 14.8 To the extent that it is not inconsistent with clause 14.7 constituting a "confidentiality agreement" for the purposes of section 275(6)(a) of the PPSA, the Customer agrees that the Company may disclose information of the kind mentioned in section 275(1) of the PPSA to the extent that the Company is not doing so in response to a request made by an "interested person" (as defined in section 275(9) of the PPSA) pursuant to section 275(1) of the PPSA.

- 14.9 If the Customer defaults on the timely performance of any obligation owed to the Company, the Company may enforce its security interest by repossessing and reselling the Collateral, or by exercising all or any of its rights under these Conditions, the general law and the PPSA. To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement by the Company of its security interest, the Customer and the Company agree that the following provisions of the PPSA do not apply:
- to the extent that s 115(1) of the PPSA allows them to be excluded: ss 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 138B(4), 142 and 143; and
 - in addition, to the extent that section 115(7) of the PPSA allows them to be excluded: ss127, 129(2) and (3), 132, 134(2), 135, 136(5) and 137.
- 14.10 The Customer must promptly do anything the Company requires to ensure that the Company's security interest is perfected and has priority over all other security interests.
- 14.11 Nothing in this clause 14 is limited by any other provision of these Terms or any other agreement between the Company and the Customer. Nothing in this clause, limits the Company's rights or the Customers obligations apart from under this clause.
- 14.12 If the Company accepts the Customer's claim, subject to the terms of these Conditions of Sale, the Company and Customer must use all reasonable endeavours to agree to an appropriate remedy.

15. Miscellaneous/ General

- 15.1 The Contract is the entire agreement between the Parties in relation to the Product and supersedes all other contracts, arrangements and understandings relating to the supply and delivery of the Product.
- 15.2 There is no relationship of agency, partnership, or joint venture as between the Parties.
- 15.3 The Contract is governed and construed in accordance with the laws applicable in the Jurisdiction and the Parties submit to the non-exclusive jurisdiction of the courts in the Jurisdiction.
- 15.4 Unless expressly set out in these Terms, a Party shall not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another power or remedy. A waiver of a right, power or remedy must be in writing and signed by the Party giving the waiver.
- 15.5 Neither Party may assign the Contract without the prior written consent of the other Party.
- 15.6 A rule of construction does not apply to the disadvantage of a Party simply because that Party was responsible for the preparation of the Contract or any part thereof.
- 15.7 A term or part of a term of the Contract that is illegal or unenforceable may be read down to the extent necessary or severed from the Contract in order for the remaining terms of the Contract to remain in force and effect.

16. Important Safety Information

- 16.1 Silos should not be used for storage of fertilisers. Silos used to store fertilisers have been known to collapse. This poses a risk to human safety and may lead to loss and damage of product. The Company does not recommend storage of fertiliser in silos. All Products supplied to are Customer are handled and stored at the risk of the Customer and the Company accepts no liability in this regard. The Customer must take all appropriate safety precautions with respect to the goods including referencing all material safety data sheets provided with the Products or available from the Company.

17. Definitions

- 17.1 In these Terms, the following definitions shall apply:
- Agreed Delivery Location** means the agreed location specified on the Contract Confirmation (if applicable);
- Blended Product** has the meaning set out in clause 8.2 of these Terms;
- Business Day** means a day, other than a Saturday, Sunday or gazetted public holiday, on which banks are open for business in the Jurisdiction;
- Chain of Responsibility Laws** means the requirements known as the "Chain of Responsibility" obligations imposed on a person by the HVN Law applicable in the Jurisdiction as someone who has control or influence over any part of the transport chain in which that person plays a part;
- Contract Documents** means each document comprising the Contract as set out in clause 1.4;
- Customer** means the customer named in the Contract/Contract Confirmation;
- Delivery** has the meaning set out in clause 5.2 of these Terms;

Depot Location means the premises of the Company as set out in the Contract Confirmation, if applicable;

Dispute has the meaning set out in clause 12.1 of these Terms;

Ex Works has the meaning given to it under the Incoterms 2020;

Force Majeure Event means:

- a) any cause or event reasonably beyond the control of the Customer or the Company (as applicable) which by the exercise of due diligence, such Party could not have been able to avoid or overcome, and shall include without limitation, any act of God, fire, flood, wind, explosion, power failure, war, embargo, act of government, epidemics, pandemics or a result of a Government regulation, decree or instruction regarding COVID-19, strike (including dock and/ or shipping strike), lock-out, combination of workers, civil commotion, and/or refusal of, revocation of, or delay in obtaining any necessary consents or approvals of any government or regulatory authority, and/or any failure or breakdown or accident to, plant and machinery, and
- b) the term "Force Majeure" shall be deemed to:
 - i) include any of the foregoing events which delays the performance of a third party within the Company's supply chain; and
 - ii) exclude any delay in payment such that payment shall never be prevented by a Force Majeure;

HVN Law means the national applied law scheme based upon the schedule to the Heavy Vehicle National Law Act 2012 (Qld) and the Regulations passed pursuant to that Act;

GST has the same meaning within Section 195-1 of the GST Act;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

Tax Invoice means a tax invoice issued to the Customer with respect to the particular Customer and the particular Contract;

Incoterms means the rules issued by the International Chamber of Commerce (ICC) which define the responsibilities of sellers and buyers for the sale of goods in international transactions;

Jurisdiction means the State or Territory of Australia in which the Agreed Delivery Location or Depot Location is located (as applicable);

Order means a request from the Customer to the Company for supply of the Product;

Product means the fertiliser and/or related product that the Company agrees to sell, and the Customer agrees to purchase, including Blended Products, as set out in the Contract Confirmation.

Parties means the Company and the relevant Customer (and each is a "Party");

PPSA means the *Personal Property Securities Act 2009* (Cth);

Price means the price for purchase of the Product as stipulated in the Contract Confirmation or the Invoice (whichever is issued later);

Resolution Institute Rules means the Resolution Institute Arbitration Rules 2020 of the Resolution Institute, ACN 008 651 232;

Company means the entity listed on the Contract Confirmation;

Tax Invoice has the meaning given in the GST Law;

Taxable Supply has the meaning given in the GST Law; and

Trading and/ or Credit Account Terms means the Company's standard trading account terms, as may change from time to time, which apply to the Customer's account with the Company (if applicable).