

## **General Terms and Conditions of Purchase of Agromed Austria GmbH**

### **1. General**

(1) These General Terms and Conditions of Purchase shall be exclusively relevant to all purchase contracts concluded by us. The Seller accepts them as binding for the present and all future purchase contracts. This shall also apply in the case that a Seller makes reference to his own terms and conditions. We do not accept any conflicting, deviating or supplementary terms and conditions of the Seller.

(2) If a framework agreement has been concluded with the Seller, these General Terms and Conditions of Purchase shall apply both to this framework agreement and the specific order.

(3) Express written agreements (including side agreements, modifications or amendments) made between the Parties in a specific case shall prevail over these Terms and Conditions in any case.

### **2. Order acceptance**

All orders placed by the Purchaser shall be deemed accepted if not rejected immediately after receipt.

### **3. Delivery / Acceptance / Rights in the case of non-performance**

(1) The agreed delivery period/acceptance period shall apply. If the Seller does not fulfil his contractual duties at all or in time, the Purchaser is entitled to rescind the contract and/or to claim damages, including but not limited to legal recourse for the damage suffered by the Purchaser's customers, after fruitless expiry of a grace period granted to the Seller of usually five (5) business days, unless such grace period is dispensable according to statutory provisions.

(2) Additional costs incurred by a covering purchase, if any, shall be borne by the Seller, irrespective of any other liability for damages as defined in Clause 3. (1).

(3) A delivery note must always contain detailed information on quantities and goods and the exact total number of packages and the number of pallets and should contain Agromed's order number. The retail price or catalogue price must not be shown on the delivery note unless it is explicitly required by the Purchaser. The delivery note must be handed over with any shipping documents to the recipient of goods, additionally to the goods. The Purchaser shall receive a copy of the documents.

### **4. Force Majeure**

(1) *Force Majeure* is an event which is beyond the control of the parties to the contract and could not have been foreseen and which either prevents, significantly hampers or makes uneconomical the performance of the contract or the mutually presupposed use of the subject matter of the contract, such as in particular: strike, war, civil war, riot, terrorism, cybercrime, natural disasters or natural events such as e.g. low or high water, ice, storm, lack of energy, transport and customs clearance delays, official decrees, as well as all measures, effects or events in connection with epidemics, epidemics or pandemics (in particular COVID-19), or other comparable cases.

(2) In the event of the occurrence of Force Majeure, the Purchaser is entitled to extend the Seller's performance period by the duration of the force majeure and an additional reasonable grace period. Furthermore, the Purchaser is entitled to withdraw from the contract with immediate effect for the duration of the Force Majeure, irrespective of the extension of the deadline.

(3) This provision shall also apply in the event that a Force Majeure event occurs at the Purchaser's customer or vicarious agent.

(4) For the avoidance of doubt the following circumstances are no events of *Force Majeure*: officially ordered measures or restrictions on use of animal feed due to a lack of

or limited marketability of the goods or production disruptions, machine breakdown, major damage and other disruptions which occur in the Seller's organisational and commercial area of responsibility.

## **5. Condition / Quality / Sampling**

(1) Subject to any other agreements the goods delivered must be customary in trade and comply with all statutory requirements, in particular animal feed regulations. The Seller guarantees that no patent, trademark and design rights are violated. Any official ascertainment on the lack of marketability shall be binding on the Seller.

(2) The Purchaser is entitled to take samples. In the case that the goods are resold to third parties samples can be taken on the premises of the Purchaser's customers.

(3) The Seller shall take and keep a retention sample. At least a sample of around 500 g (minimum 250 g) must be kept in a moistureproof and more or less airtight sealable container (e.g. a Debasafe bag) as a retention sample, which ensures the sample's identity and its unaltered composition. In the case of loose deliveries a retention sample of equally around 500g (a minimum of 250 g) must be taken directly upon loading and kept in a moistureproof and more or less airtight sealable container (e.g. a Debasafe bag) which ensures the sample's identity and its unaltered composition. The Purchaser shall be allowed access to the retention sample of the delivered batch throughout the entire storage life and at least for six (6) months.

(4) The Seller must continually monitor the delivered goods and the goods to be delivered and immediately inform the Purchaser of any faults and defects. The same applies to changes in the state of science and technology. If such changes applying to delivered goods prove defective or faulty, the Seller must notify the Purchaser immediately and retrieve such defective or faulty products at his own expense. If the Seller does not comply with these duties and the Purchaser (or the Purchaser's customers) therefore become liable for costs or damages to a customer or a third party according to product liability regulations in force, then the Seller shall be obligated to fully indemnify and hold the Purchaser harmless.

(5) The Seller shall be obligated to draw attention to any usage risks by attaching clear, permanent notices and provide us with the current version of the safety sheets.

## **6. Undesirable substances / Concentrations / Complaints**

(1) Within three (3) months of delivery of the goods to the Purchaser or its customers the Purchaser may order an analysis from an accredited analysis institute. The Purchaser shall notify any complaint about the goods to the Seller immediately after receipt of the analysis report.

(2) The Parties agree to be bound by the outcome of the analysis.

(3) If the goods prove to be defective after the result of the analysis according to paragraph (1) or after the result of officially initiated analyses, the Seller shall bear the costs of all analyses.

## **7. Warranty**

(1) If the goods delivered are defective, which also includes minor defects, the Purchaser is entitled to the warranty rights set forth in the following paragraphs. The burden of proof of non-existence of defects shall be on the Seller.

(2) If the goods delivered deviate from the agreed condition and quality or if they contain undesired/prohibited substances and/or contaminations, the Purchaser is even primarily entitled, at his option, to improvement, replacement, a price reduction or rescission of the contract. Subject to other claims, the Purchaser is entitled to demand that the goods delivered be taken back against refund of the purchase price paid and of the costs and interest relating to the goods.

(3) Apart from the right to return the goods, substitute delivery of goods that are in conformity with the contract may be demanded once. If the Purchaser exercises his right to substitute delivery, the Purchaser shall, to the extent they are still available, make available to the Seller the goods complained about for the latter to take them back. Unless otherwise agreed, the Seller shall effect substitute delivery within five (5) business days of the requested to do so. In the case that the goods are resold to third

parties replacing may also take place directly on the premises of the Purchaser's customer.

(4) If substitute delivery is not effected in time as defined in paragraph (3), the Purchaser is entitled to rescind the contract and/or to claim damages instead of performance as defined in Clause 3 (1). The last business day of the five-day period shall be the decisive date.

(5) If the Seller is liable for damages by law or contract, he shall in particular compensate the Purchaser for damage suffered due to a legally prescribed or an officially ordered recall of the defective goods or a product (animal feed) manufactured by the Seller.

(6) If the Purchaser is held liable under a warranty claim in the case that the goods are resold to a third party, the Seller shall indemnify the Purchaser against any damage suffered as a result thereof. In addition, the Seller undertakes to treat any warranty claim raised against the Purchaser by a customer of the Purchaser as a warranty claim raised against himself.

(7) The Purchaser's rights based on defects shall become time-barred after two years. The statutory period of limitation shall commence upon delivery of the goods to the Purchaser or direct delivery to his customers. The Seller expressly waives a plea of late notification of defects as defined in Section 377 of the Austrian Business Code [*Unternehmensgesetzbuch/UGB*].

## **8. Processing of payments**

(1) Payment of the purchase price shall be effected against submission of an invoice and presentation of the relevant proof of delivery. Payment shall definitely not become due before the issuing of a proper invoice which possesses the features of invoices required by law. The Purchaser shall be entitled to rights to set off or withhold payments to the extent permitted by law.

(2) Unless agreed otherwise, invoices shall become due for payment within 30 days of receipt of the invoice by the Purchaser. The Parties agree on a cash discount of 3% for payments made within 14 days.

(3) The date of the transfer order or payment by the Purchaser shall be decisive for timeliness of the payment.

## **9. Prices**

Unless agreed otherwise, the agreed prices shall be fixed lump-sum prices. Such lump-sum prices shall also cover any expenses of the Seller and all fees, taxes and charges that may be imposed.

## **10. Right to withhold services**

The Seller shall have no right to withhold services to be provided by him.

## **11. Data processing**

(1) The Seller undertakes to process the person-related data sent by the Purchaser in accordance with the currently valid data protection laws, as amended, for the sole purpose of performing the contract and to delete these data promptly when there is no longer any reason justifying the processing

(2) Regarding the Purchasers duties to provide information under data protection law according to Articles 13 and 14 of the General Data Protection Regulation (GDPR), please refer to the data protection statement on the Purchasers website. Upon request, the Seller will be provided with a copy of this data protection statement at no charge.

## **12. Written form**

Modifications of and/or amendments to the contract or these Terms and Conditions shall be made in writing. This shall also apply to an abolishment of the requirement of written form. No oral side agreements exist.

**13. Applicable law / Place of jurisdiction**

The contract concluded shall be subject to Austrian law; UN Sales Law and the provisions of private international law (e.g. the Austrian Statute on Private International Law [IPRG] and the Rome I Regulation) shall be excluded. All disputes arising out of the transaction concluded and other agreements made in connection therewith shall be settled by the court of law at the place of the Purchaser's registered office.

**14. Severability clause**

If any provision of these Terms and Conditions or of the specific contracts are or become legally ineffective, invalid and/or void, the validity and/or legal effectiveness of the remaining provisions shall not be affected thereby. A legally ineffective, invalid and/or void provision shall be replaced by a legally effective and valid provision which comes as close as possible to the financial purpose of the legally ineffective, void or invalid provision.