

Martin Ag

Conditions of Sale

1 Acceptability of these conditions of sale

The conditions of sales shall apply to all sales by Martin Ag (herein referred to as Seller), unless specifically excluded or varied in writing by the Seller. Any person or corporate body who places an order accepted by the Seller shall be deemed to be the Buyer.

2 Buyers warranty

Unless Buyer notifies Seller that the goods are to be used for any different purpose, Buyer warrants and acknowledges that it is a condition of this contract that the goods sold hereunder will be used solely for the purpose described on the statutory statement, the packaging accompanying the product or previously supplied instructions for use from the Seller.

Buyer warrants that products bought from Seller will not be used to make equine feed, For products manufactured for resale "Do not feed to equines" to be printed on label and on invoice.

3 Provisions relating to GST import duties etc

Buyer agrees that it will supply to Seller on demand evidence that Buyer has complied with the warranty referred to in paragraph 2 above. Should such evidence be required at any time by Customs and Excise or any other Government Authority. If Buyer fails to produce such evidence on demand, Buyer will indemnify Seller, on demand, in respect of any duty or fine which Customs and Excise or other such authority may levy in respect of that quantity of goods for which such evidence is not forthcoming to the satisfaction of Customs and Excise or other such Authority.

In the event that during the period of this contract any import duty, government tax or levy, or any charge or similar nature is imposed in goods or is to be imposed at an increased rate, all such charges or increased charges will be for the buyers account.

4 Delivery

Deliveries pursuant to this contract will be made in accordance with the Buyers instructions. For this purpose Buyer undertakes to give such instructions (with regard to the place and time of deliveries and otherwise) as will reasonably enable Seller to comply with its obligations hereunder.

Delivery times quoted by Seller are estimates only and Seller shall not be liable for failure to deliver and Seller may deliver within any reasonable time.

Unless separately agreed where goods are delivered on pallets the pallets remain the property of Seller and are returnable. A refundable deposit will be charged pending their return in good condition.

All sales of bulk products are made on the basis of the weight as ascertained on the weighbridge at the site of origin. A copy of the weighbridge ticket in respect of each load will be given to Buyer or Buyers representative.

5 Property and Risk

Property in the goods shall remain vested in Seller until payment in full of the invoiced price and until such payment the Buyer shall hold the goods as bailee on behalf and in fiduciary capacity for Seller.

Until such time as Seller has been paid in full the Buyer shall (subject to paragraph d below) store the goods in such a way as to be identifiable as the property of Seller. In this period Buyer shall maintain the goods in saleable condition and according to the storage instructions on the packaging or delivery documents.

If the goods are sold on by the Buyer before Seller has been paid in full the Buyer shall hold the proceeds of the sale on trust for Seller and such proceeds of sale shall be placed in a bank account of the Buyer in such a way as to be identifiable as being in the beneficial ownership of Seller.

In the event of non payment by the Buyer by the due date Seller shall be entitled in addition to all other rights to enter upon any land or premises where the goods may for the time being be and recover possession of them.

Notwithstanding that the property in the goods may not have passed to the Buyer, the Buyer shall carry all risk of loss and damage to the goods from the earliest of the following :-

- Delivery of goods to the Buyer.
- The weighing over of goods to the Buyer.

6 Terms of Payment

Unless otherwise agreed in writing by Seller payment in respect of goods sold hereunder shall be made not later than 30 days after the date of Delivery or Collection.

b Buyer acknowledges that the contract hereby formed is entire and separate from any other contract between Seller and Buyer and that no right of set-off or counterclaim exists or may be pleaded against Seller in respect of any monies due under or by virtue of this contract.

c If the Buyer is in default of his obligations to make payment then the Buyer shall indemnify the Seller against all costs and expenses reasonably incurred by the Seller in connection with collection of all sums due. Seller reserves the right to charge interest on all sums due, either before or after judgement. This provision shall be in addition to all other obligations for payment.

7 Force Majeure

Seller shall not be liable for failure on its part to perform any obligation of Seller where such failure is a result of Force Majeure which for the purpose of this contract shall mean, without limiting the generality of the expression, war, Acts of God, Fire Flood, Strikes, lock outs, riots, civil disturbances, restraints or embargoes by government authorities, partial or total destruction of receiving storage or distribution facilities, breakdown of machinery or plant, default by suppliers or any other cause beyond the reasonable control of the Seller, and in the event of any such happening Seller shall have the right to cancel the contract without liability to the Buyer.

In case of shortage due to or contributed to by any one or more of the above cases. Seller may apportion its supply of goods among its customers (including Buyer) without regard to priorities that may be claimed by reason on which contracts for goods were entered into with the Seller and Seller shall not be chargeable for the breach of its obligations to deliver goods hereunder so long as Seller during the period of such shortages exercises good faith in the appointment of goods deliverable by it to its customers including Buyer.

8 Default

In the case of non-fulfilment by Buyer of one or more of its obligations under this contract or in other cases of default (including any insolvency event involving the Buyer) Seller is entitled to cancel the unexecuted part of this contract by written notice and claim damages based on the difference between the contract price and the market price prevailing on the day of default together with any other damages incurred by Seller.

9 Waiver

The failure of Seller to enforce at any time or for any period any one or more of the terms of this contract shall not constitute a waiver. Similarly should any of these Conditions become unenforceable or void at law it shall not adversely affect or prejudice the remainder of them or the Contract.

10 Claims

The goods shall be accepted by Buyer as delivered. All shortages, faults and defects, if any, attributable to Seller shall be allowed for by mutually agreed valuation or goods returned to Seller. Seller shall not be liable for any such shortages, faults or defects unless the Buyer shall send written notice of same, received by Seller within 7 days of receipt of the Goods.

11 Assignment

Buyer shall not assign or transfer this contract in whole or part.

12 Interpretation

These terms and conditions and the Contract shall be construed and take effect in accordance with the Laws of Western Australia
Acceptance of the first delivery from this contract shall be considered as acceptance of the entire contract terms and conditions.

ISSUE 2 1/06/12