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General Terms and Conditions of Sale, Supply and Delivery of Soja Austria Vertriebs GmbH (FN 153813x)

Version date: May of 2020

1. Definitions

1.1 “Buyer” means our contractual partner.

1.2 “Subject of the Contract” or “Contractual Goods” means the goods of any kind ordered by the Buyer from us.

1.3 “Individual contract” means the contract effectively concluded on the basis of our offer and our order confirmation or act of performance.

2. Scope of application

2.1 All our contractual transactions, deliveries, other services or deliverables and offers shall exclusively be subject to these General Terms and Conditions of Sale, Supply and Delivery. The Buyer expressly acknowledges that we already now object to all deviating stipulations or conditions in an order or other business documents of the Buyer. Any deviating terms and conditions of the Buyer shall not be recognised by us and shall only apply if confirmed by us in writing, even if we do not expressly object to them again in individual cases. These present General Terms and Conditions of Sale, Supply and Delivery shall constitute a framework agreement applicable to any and all other contractual transactions effected between ourselves and the Buyer.

2.2 In the event of any discrepancies in the underlying contractual assumptions, the following hierarchical order shall apply for their resolution:

- the individual contract,
- these present General Conditions of Sale, Supply and Delivery,
- other provisions.

3. Formation of the contract

3.1 Our offers and price lists are non-binding and subject to change and shall be deemed merely as an invitation to place an order. Orders placed by the Buyer shall be deemed to constitute a binding offer to enter into a contract with us. Orders of the Buyer shall be binding for the Buyer from the time of receipt by us; receipt by our employees is sufficient for this purpose.

3.2 Contracts shall not be considered effective until we have confirmed the Buyer’s order in writing or performed an act of implementation (e.g., delivery/shipping of the Contractual Goods). All other agreements or ancillary agreements, including those made later, shall not take effect until we have confirmed them in writing. Our employees are not authorised to make legally binding declarations or representations on our behalf unless special powers of attorney have been granted by us which have been disclosed to the Buyer.

3.3 Goods-specific information in our documentation is approximate only, unless it has been expressly guaranteed as binding. Production-related changes and variances shall remain reserved in every case. We may correct mere typing and calculating errors in offers, quotes, order confirmations, or invoices at any time.

4. Prices

4.1 All our price quotations are subject to confirmation and are quoted, unless otherwise expressly specified, in Euro (EUR) and net of applicable value added tax. Unless otherwise agreed in writing, cost estimates are made without warranty for their accuracy.

4.2 Any changes in wage costs due to collective agreements or statutory regulations or internal company agreements, as well as changes in other cost centres relevant to the calculation or costs necessary for the provision of our deliverables, such as those for materials, energy, transport, third party work, financing, customs duties, taxes etc. and any costs due to any event of *Force Majeure*, shall entitle us to increase the prices accordingly. The Buyer shall not be entitled to withdraw from the contract on this ground, nor shall he be entitled to assert frustration of contract. Unless otherwise agreed in writing, all prices are understood to be quoted excluding incidental charges.

5. Delivery, transfer of risk, disposal costs

5.1 The contractual delivery periods shall only commence upon dispatch of the order confirmation by us. The respective period shall, however, not commence until all of the technical or other information, documentation, down-payments or any other Buyer performance required for us to be able to meet our obligations have been confirmed by us as received at our company in due time.

5.2 The delivery period shall be extended appropriately if, at the Buyer's request, changes in the product specifications and/or design are necessary which require additional deliveries or additional services. Any additional costs arising from this will be borne by the Buyer.

5.3 Agreed delivery dates will be adhered to as far as possible, but are not binding. Delays in delivery will entitle the Buyer neither to rescind the contract, nor to assert any claims for warranty, avoidance due to error, or damages. We are entitled to make and invoice partial or early deliveries.

5.4 Packaging – including that of partial and/or advance deliveries - will be according to normal trade practice.

5.5 Our deliveries shall be governed by the most recent interpretation of Incoterms. Unless otherwise agreed, delivery times stated are only indicative and shall not be binding. In the event that the delivery time is exceeded, the Buyer shall be entitled to set a grace period and, if this period expires without success, to withdraw from the Individual contract. The Buyer can only obtain compensation for damages if we are responsible for intent or gross negligence.

5.6 Business interruptions and events of *Force Majeure* as well as other events beyond our control, including, but not limited to, delivery delays and the like on the part of our sub-suppliers, shall entitle us –excluding any and all legal remedies claims, in particular, warranty, avoidance due to error, or liability claims– to either extend the period accordingly, or to rescind the contract for the portion not yet fulfilled. This shall also apply if the events occur at a time at which we are in default. For the purposes of the present contractual provision, *Force Majeure* shall be understood to include all of the events mentioned in § 3 lit. a to g of the “ICC Force Majeure Clause 2003”.

5.7 Where a delivery on call is agreed upon, all of the goods must be called within the agreed contractual period and - if agreed - in compliance with the agreed minimum purchase quantity. Should the Buyer fail to comply with this obligation, we shall be entitled,

at our discretion and after a grace period of 2 weeks has been set to no avail, to invoice and send to the Buyer the remaining goods - or, if no goods have been called by the end of the contract term, all of the goods - or to store them at the Buyer's expense or to withdraw from the contract and claim damages in full for the loss we have incurred due to non-performance, but no less than 15 % of the invoice value.

5.8. Should the goods delivered by us have to be disposed of for whatever reason and wherever, the costs for this disposal shall be borne by the Buyer, unless the necessity for disposal was culpably caused by us. The burden of proof for a fault on our part shall in any case lie with Buyer.

6. Terms of payment, default, prohibition of set-off, international deliveries

6.1 We shall be entitled to send our invoices by electronic means. The Buyer hereby expressly declares that he agrees to this form of transmission. Unless otherwise agreed, our invoices –including partial invoices– are due and payable 14 days from invoice date net, free of any deductions for fees, charges or other deductions such as for discounts. Payments will only be accepted in the form of electronic bank transfer, payment in cash requires our written consent. Unless otherwise agreed in writing or required by law, any retention to secure warranty claims will not be accepted and shall be deemed as payment arrears. Bills of exchange or cheques will be accepted only by special agreement. We reserve the right to credit incoming payments at our discretion to any of several receivables.

6.2 In the event that the Buyer defaults on payment, we shall be exempted from all further performance and delivery obligations and shall be entitled to withhold any outstanding deliveries or performance, or to demand advance payments or guarantees. In addition, the Buyer must, regardless of where the fault may lie, pay default interest in the amount of 1 % per month; here, we shall be entitled to claim any bank interest exceeding this rate, to the customary extent. Furthermore, the Buyer shall reimburse us for all costs incurred for reminders and collections. To the extent that we send a reminder, the Buyer undertakes to pay an amount of €20.00 per reminder.

6.3 If, once the contract has taken effect, a significant deterioration of the Buyer's financial situation occurs, or if circumstances become known that are, in our opinion, likely to diminish the Buyer's creditworthiness, any and all receivables will become due and payable immediately. In this case, further deliveries will only be performed against payment in advance.

6.4 Withholding or offset on the part of the Buyer based on counterclaims of whatever kind shall be excluded.

6.5 For export transactions, it is exclusively the Buyer's responsibility to ensure, at his expense, that the necessary export, import, customs and other permits and the like are obtained and maintained. Unless otherwise agreed, we are not granting any warranty or guarantee whatsoever that the import of the Contractual Goods to the country of destination will be permitted. In the event of an EXW-FCA delivery, the Buyer shall return any and all export, import and customs documents and the like to us in scanned or other electronic form; otherwise, the Buyer shall be obliged to pay any value added tax due. Furthermore, for international deliveries, the opening of an irrevocable letter of credit at a bank to be named by us, which is to be used upon presentation of the shipping documents or of the freight forwarder's certificate of receipt, is a prerequisite for our delivery. The

costs of opening and processing such a payment transaction shall be borne in equal parts by us and the Buyer, unless otherwise agreed in writing.

7. Retention of ownership

7.1 We reserve the right of ownership in all Contractual Goods or parts thereof delivered by us until the purchase price including interest and ancillary fees, for whatever legal reason, have been fully paid. If an order consists of several partial deliveries, this shall be deemed to constitute one single order and the retention of ownership of all delivered goods shall remain in force until all receivables accrued from this transaction have been fully paid. The assertion of reservation of ownership shall, unless we rescind the contract – which we are entitled to do unilaterally –, generally not be deemed to constitute a rescission of the contract and will not annul the Buyer's obligations; in particular, to pay the compensation.

7.2 The Buyer may transfer his expectant right (*Anwartschaftsrecht*) to the Contractual Goods that are subject to our retention of ownership (the "Reserved Contractual Goods") in the course of his business but shall not be entitled to pledge or assign the Reserved Contractual Goods by way of security. This right of the Buyer may be revoked by us at any time.

7.3 The Buyer must promptly notify us of any attachment or other impairment of our property by third parties. The Buyer shall be obliged to bear the costs and measures to remedy such intervention, in particular for judicial proceedings and the like.

7.4 All claims arising from the sale of goods to which we have title are here and now assigned by the Buyer to us for securing and satisfying our claims. We hereby accept the aforesaid assignment. The Buyer is obliged to promptly make names and addresses of its buyers, the existence and amount of the receivables resulting from the sale verifiably known to us and to notify each of its buyers of the cession of the receivables. In addition, the Buyer is obliged to highlight the cession of such receivables to us in his business accounts in a suitable manner. We are entitled at any time to notify the Buyer's buyer of the cession. Any cession fees shall be borne by the Buyer. To the extent that our overall claim is secured by assignment in excess of 125 % without any doubt, the excess of the outstanding receivables shall be released by us upon request of the Buyer.

7.5 The retention of ownership also extends to the products generated by processing. If, along with the Reserved Contractual Goods, the processed product contains only such items that either belong to the Buyer or have only been delivered under ordinary retention of title (*einfacher Eigentumsvorbehalt*), the assignment shall apply to the entire purchase price claim. In the event of a coincidence of advance assignments to several suppliers, we are entitled to the fraction of the purchase price claim which corresponds to the ratio of the invoice value of our Reserved Contractual Goods to the invoice value of the other processed items. In the event of processing with goods still owned by third parties, we shall acquire co-ownership of the new product in proportion of the invoice value of our goods to the invoice value of the goods owned by third parties. The Buyer shall be obliged to bind his customers to this legal consequence. We hereby accept the aforesaid assignment. Should the reservation of ownership expire due to circumstances of whatever kind, the ownership of the new products shall be transferred to us upon processing; we hereby accept this transfer of title. In this case, the Buyer shall remain the custodian of the new product free of charge.

7.6 The Buyer here and now assigns all amounts received from the cash sales of goods to which we have title, to us and this assignment is made up to the amount of the receivable

which we have against the Buyer from the associated delivery of such goods. We hereby instruct the Buyer to segregate such amounts and to hold them on behalf of us.

7.7 Should the Buyer not meet its obligations or default on its payments, the entire remaining amount owed shall become payable immediately, even if bills of exchange have a longer term. In this case, we shall be entitled to promptly request the return of the Contractual Goods, excluding any right to holdback. After taking back the Contractual Goods, we may – at our discretion – either sell the Contractual Goods and credit the resulting proceeds minus a 20 % resale fee to Buyer's remaining payables, or take the Contractual Goods back at the invoice price minus any impairments, and to invoice the Buyer for rent at market price for the time the Buyer was in possession of the delivered Contractual Goods.

8. Warranty, damages, product liability

8.1 Notifications of defects must be made by the Buyer promptly, in writing with an exact description of the defect and photographs and no later than eight calendar days after receipt of delivery and prior to any processing or machining, otherwise any warranty claims and/or claims for damages and/or avoidance on grounds of error shall be excluded. Any assertion of a claim for a defect shall, however, not entitle the Buyer to refuse acceptance of the Contractual Goods and/or to withhold invoice amounts or parts thereof.

8.2 For any defects which could not be ascertained at the time of acceptance of delivery, the warranty period shall be six months from the delivery date and such period shall neither be extended nor interrupted by any attempts to remedy the defect and the warranty period also applies to partial deliveries. Any claims with respect to such defects must be asserted in writing and within four calendar days from the detection of the defect, otherwise any warranty claims and/or claims for damages and/or avoidance on grounds of error shall be excluded. Any assertion of a claim for a defect shall, however, not entitle the Buyer to withhold invoice amounts or parts thereof.

8.3. Variances between ordered and delivered Contractual Goods, such as wrong dimensions or wrong goods (*aliud* delivery) must be asserted in writing within four days from delivery and before any transfer, machining or processing. This shall also apply in the event that approval of the goods by the Buyer cannot be expected. Otherwise, the Contractual Goods will be considered approved and cannot be taken back or exchanged by us.

8.4 Our advice, whether provided orally or in writing, is non-binding and does not absolve our Buyers from their own inspection of the Contractual Goods' suitability for the intended purpose. In case of follow-up deliveries we will not assume any warranty for an exact conformity with the initial delivery.

8.5 The Buyer shall always be obliged to provide a proof that the delivered Contractual Goods were defective at the time of the handover and the legal presumption of section 924 ABGB (Austrian Civil Code) shall be excluded.

8.6 For those Contractual Goods that we have sourced on our part from suppliers, we will only provide a warranty within the scope of warranty claims owed to us by the supplier.

8.7 For the Contractual Goods delivered by us, we will only warrant that they have the properties usually assumed for such goods on the market. For properties beyond this, in particular properties mentioned in public statements such as advertising and the information enclosed with the Contractual Goods, we only provide a warranty if these properties have been assured by us in writing when the order was placed.

8.8. The warranty will become void if the Buyer himself or third parties perform modifications on the delivered Contractual Goods without our written consent, including in particular any repackaging of the Contractual Goods.

8.9 Where we sell Contractual Goods on the basis of samples/specimens, the properties of such samples/specimens are not warranted; such description of the Contractual Goods shall be deemed to be non-binding. The same applies to analyses unless certain values are expressly warranted.

8.10 Unless otherwise agreed by a special agreement, the place of performance for our services to be performed from the warranty title is the location of our company's registered office. Should the Buyer fail to provide us, at our request, with the opportunity to examine his complaint in respect of a defect, in particular if he fails to promptly make the goods which are subject to complaint or samples thereof available to us at his expense, any and all warranty claims and/or claims for damages shall be excluded.

8.11 We may choose whether we will satisfy the warranty claims by means of replacement, rectification, price reduction, or contract rescission.

8.12 The assignment of warranty claims and claims for damages or the like is prohibited, except for pure financial claims. The right to recourse provided for in section 933 b ABGB shall be excluded.

8.13 Our liability for any damages suffered by the Buyer due to business transactions with us shall generally be limited to the value of the purchase order placed with us and restricted to damages resulting from gross misconduct on our part or on part of our agents. This limitation of liability shall not apply to claims relating to personal injury, where we shall be liable also in the event of slight or ordinary negligence. Any compensation by us for consequential damages, pure economic losses, loss of profits, and damages resulting from third party claims shall be excluded. Claims for damage compensation shall become time-barred after six months from delivery of the Contractual Goods.

8.14 Any and all instructions that are given in directions for use, manuals or other product information shall be strictly followed by the Buyer in order to prevent any damage. We expressly warn against any use beyond the defined areas of application.

8.15 In the event that our Buyer should be held liable on the grounds of the Austrian Product Liability Act (*PHG, Produkthaftungsgesetz*), the Buyer expressly agrees to waive the right to recourse within the meaning of section 12 PHG.

8.16 In the event that the Buyer places the goods delivered by us on a market outside the European Economic Area, the Buyer undertakes and agrees to exclude the liability for damages under the Austrian Product Liability Act towards his customers provided that this is possible under the law applicable or agreed between him and his customer. In such case or in the event that the Buyer should fail to meet this obligation to exclude the product liability, the Buyer shall be obliged to indemnify and hold us harmless in respect to any claims asserted by third parties on the grounds of product liability. The Buyer undertakes and agrees to take out adequate product liability insurance for this purpose and to submit the policy to us upon request.

9. [Amendment of the agreement, Withdrawal from the agreement](#)

9.1 Should unforeseen events occur, which substantially alter the economic significance or the nature of the deliverables or significantly affect our operations, or should it subsequently become evident that it is impossible to perform, the contract shall be amended appropriately. If this is not economically justifiable, we shall be entitled to

withdraw from the contract or parts thereof. If we want to make use of this right of withdrawal, we must inform the Buyer immediately after becoming aware of the consequences of the event, even if an extension of the delivery period was initially agreed with the Buyer.

9.2 In the event of default of acceptance or other important reasons, such as default of payment by the Buyer, we shall, without prejudice to other claims of any kind, be entitled to immediately withdraw from the contract after having granted a 14-days grace period. Such rescission shall have legal effect upon our unilateral declaration of withdrawal from the contract.

10. Data privacy, Confidentiality

The Buyer hereby expressly consents that also personal data contained in the contract will be stored and electronically processed by us in performance of this contract. With regard to legal data protection provisions, we refer to the link “Data Protection” which can be accessed separately on our website.

11. Applicable law and jurisdiction

11.1. All contractual transactions, including without limitation those that are subject to these present General Conditions of Sale, Supply and Delivery, shall be governed exclusively by Austrian substantive law, with the exception, however, of its conflict of law rules, in particular those of Private International Law, insofar as such rules provide for the application of foreign law. Where Austrian law provides for cases that involve foreign countries the application of special international substantive law - such as the UN Convention on Contracts for the International Sale of Goods (CISG) - which are also applicable in Austria, these shall not apply and are hereby explicitly excluded. This shall also apply to matters concerning the formation or interpretation of these General Terms and Conditions of Sale, Supply and Delivery and the contract. The trade practice rules (*Usancen*) of the Vienna Stock Exchange for Agricultural Products shall apply.

11.2. All disputes or claims arising out or in connection with this Agreement, including disputes regarding its validity, breach, violation, rescission or nullity, shall be finally settled under the Rules of Arbitration of the Vienna Stock Exchange for Agricultural Products in the version in force at the time of the commencement of the arbitration proceedings by an arbitration panel to be appointed in accordance with these Rules.

12. Final provisions

12.1 The Buyer shall be obliged to immediately and spontaneously notify us of any change in his business address, as long as the legal transactions that are subject matter of this contract have not been fully performed by both parties. Should the Buyer fail to notify any such change of address, our statements or notices shall also be deemed to have been received by the Buyer if they have been sent to the most recent address notified to us. The burden of proof that we have received the notification of Buyer’s change of address lies with the Buyer.

12.2. The authentic contractual language shall exclusively be German. Where contracts or parts thereof, including these General Terms and Conditions of Sale, Supply and Delivery,

are also written in another language, the German language version shall apply in the event of any ambiguities or deviations.

12.3. Where written form is required in these terms and conditions or other constituent parts of the Agreement, this requirement of form shall be met by letter, fax or e-mail (also without electronic signature).

12.4. The place of performance for all contractual obligations of the parties to this contract shall, without prejudice to any agreement made on the place of delivery and/or payment and/or the assumption of any transport costs, be our company's registered office in Vienna, Austria.

12.5. Should one of the provisions of our General Terms of Sale, Supply and Delivery not be legally valid or become ineffective, the validity of the remaining contractual provisions shall not be affected thereby. The parties to this Agreement undertake to promptly agree on a replacement of the invalid contractual provisions by such provisions that approximate as closely as possible to the economic purpose of the invalid provisions. The same shall also apply to potential lacunae.

12.6. The headings of the provisions included in these General Terms and Conditions of Sale, Supply and Delivery are used for reference only and must not be used for interpretation.

12.7. No development in the business relationship between the Buyer and ourselves, and no delay or omission in regard to the exercise of any right or remedy granted to us on the basis of these General Terms and Conditions of Sale, Supply and Delivery, shall constitute a waiver of such rights. All rights and/or remedies granted to us in the present General Terms and Conditions of Sale, Supply and Delivery shall be deemed to be cumulative and of equal rank and to exist in addition to other statutory rights or remedies.