



UNIVAR TERMS & CONDITIONS – AGRICULTURE

These Terms and Conditions, together with Univar Canada Ltd.'s Standard Terms and Conditions of Sale (attached), and any Credit Application signed by Buyer, and any invoices issued by Seller, constitute the exclusive contract ("Contract") between Buyer and Univar. In the case of any conflict between these Terms and Conditions and the Standard Terms and Conditions of Sale, these Terms and Conditions will govern. This agreement may not be altered amended, or waived except in writing signed by an authorized representative of each party. Acceptance of Buyer's purchase order is subject to acceptance of all terms of the Contract, including these Terms and Conditions. If any provisions of Buyer's purchase order or other writings are different from or are otherwise in conflict with the Contract, the terms and conditions of the Contract will govern and the terms contained in Buyer's purchase order or other writings are expressly rejected by Seller.

1. PURCHASES

- Payment is due as provided on each product page issued by Univar, and as included in Univar's online price book (www.univaragpricebook.com). Price is the price in effect on date of shipment.
- Buyer must be a licensed and approved dealer to order and receive products and be eligible under such guidelines as may be established by Univar in its sole discretion. Buyer represents and warrants that it carries all required licenses and approvals, and will immediately inform Univar if any such requirement lapses or is otherwise impaired or removed.
- All products will be sold in case lots only.
- Minimum order is \$1,000.00 per invoice.
- Customers agree to pay appropriate taxes as applicable.

Note: as per the GST/HST Memoranda Series 4.4 Agriculture and Fishing (July 2007) – a supply of fertilizer (other than a good sold as soil or as a soil mixture, whether or not containing fertilizer) is zero-rated when the fertilizer is supplied in bulk quantities or in containers of at least 25 kg where the total amount of the fertilizer supplied is 500 kg or more. Please see the memoranda for further details.

2. CREDIT POLICY AND CASH DISCOUNTS

- Univar retains sole discretion regarding whether to open accounts and/or extend credit. All decisions surrounding account terms, credit limits and the granting or continuation of credit is at the sole discretion of Univar and may be terminated at any time.
- A completed Univar Account Application form must be received by Univar before consideration will be given to opening an account.
- All applications are subject to meeting Univar's account guidelines.
- Buyer warrants that it is solvent.
- Continued solvency and product stewardship are a precondition of any sale. Buyer agrees to provide updated financial information to Univar's credit department on request.
- Past due accounts are subject to a service charge of 1.5% per month, (19.56% per annum). Service charges are subject to change upon proper notification.
- Any account in an overdue situation is subject to having their credit revoked, product picked up, or any other action deemed necessary by Univar to collect outstanding amounts.
- Cash discounts may be available for product due. Contact Univar for further details.
- Prepayments on account may be allowed and will receive a competitive rate of interest as established by Univar. Contact the Univar Sales Team or Credit Department for rates of interest or discount.

PAYMENT TERMS

- Payment due dates by product type will be as set out in Univar's online price book (www.univaragpricebook.com).
- It is the responsibility of the customer to ensure payment is received by Univar when due (electronic or cheque).
- Adequate time must be allowed to ensure the funds arrive on or before the due date. (Please refer to your Financial Institution's EFI or Bill Payment Guidelines. Normally it takes 2 to 3 business days for funds to be received by Univar.)
- Univar will not accept responsibility for funds not received by Due Date.
- The full monthly service charge will be assessed starting the first day the account is past due and invoiced on the first day of each month thereafter.
- All customers receive monthly statements – any errors or omissions must be advised to Univar within thirty (30) days.

3. SHIPMENT AND DELIVERY

- Shipments via Univar selected carrier on orders of \$10,000.00 (Prairie)/\$ 5,000.00 (Guelph and BC Ag.) or more to a pre-determined destination are prepaid. On prepaid shipments, title and risk of loss passes to the dealer at the designated point of delivery.
- Orders less than \$10,000.00(Prairie)/\$5000.00 (Guelph and BC Ag.) will be made available to Buyer for pick up at Univar distribution centers, or shipped F.O.B. Univar warehouse location.
- Buyer shall arrange for shipment of Products only in approved vehicles in compliance with applicable law. Drivers must carry and be prepared to produce proper TDG documents. Univar reserves the right to refuse to load equipment that is deemed unsafe or does not meet TDG standards.
- Univar may make third party direct deliveries to Buyer customers at its discretion. Additional service charges may apply.
- Freight Charges may be applicable to items that Univar does not commonly stock even if order exceeds the prepaid minimum.

4. TRANSPORTATION CLAIMS PROCEDURE

- Procedures as outlined below apply to any shortages, damages, or concealed damages discovered at Buyer location upon receipt of product ordered from and delivered by Univar or contracted carrier on Univar's behalf.
- At any appearance of shortage or damage Buyer must contact their Univar Customer Service Representative immediately.
- All shipments with the appearance of shortage or damage must be received by Buyer and all saleable merchandise put into Buyer's physical inventory. Buyer shall sign, date, and note on carrier's pro-bill description of damage or shortage before the carrier leaves premises.
- For all damaged product Buyer must hold the shipping container and its contents in the same condition as they were when the damage was discovered, insofar as it is possible to do so.
- Within forty eight (48) hours, Buyer must advise Univar of the: Bill of Lading number, name of carrier, carrier's freight bill of lading number, probable cause of damage, name of Warehouse person on site, and a faxed copy of signed delivery receipt. All damages or shortages shall be detailed, in writing, on the Univar Bill of Lading including number of items short or damaged and a description of the damages.
- It is the sole responsibility of the Buyer to ensure an accurate count is made at the time of delivery.

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- Reimbursement of damaged material or shortage will be in the form of a credit note or (at Univar's discretion) the re-issuing of replacement product.
- All claims for concealed damages must be received by Univar within thirty (30) days of the delivery and within forty eight (48) hours of actual knowledge of concealed damage or shortage, whichever first occurs. Where concealed damage has occurred the Buyer must hold the shipping container and its contents in the same condition as they were when the damage was discovered, insofar as it is possible to do so.
- Univar reserves the right to send a representative to verify the concealed damage or shortage problem.

5. WAREHOUSING, STORAGE AND RESALE

- Univar will supply product only to warehouses in compliance with Phase III standards of the Agricultural Warehousing Standards Association and upon receipt of individual certificate numbers.
- Buyer agrees that it will comply with Agricultural Warehousing Standards Association standards, including but not limited to, only selling or shipping product to other purchasers who are also in compliance with such Standards.

6. PRICING

- Resale prices are suggested for guidance only and the Buyer is under no obligation to resell at such prices. A Buyer who sells at prices different from the Suggested Grower Price will in no way be negatively affected in his business relations with Univar or any other person.
- All orders are subject to availability of merchandise on required delivery date.
- Univar reserves the right to allocate product according to supply constraints and market demand.
- This price list is effective as per the date listed in this price book and supersedes all previous pricing.
- Pricing, packaging and terms are subject to change without prior notice.

7. CARRYOVER PROTECTION & INVENTORY RETURNS

- Buyers who place orders prior to the end of February, and pay for such order as agreed, may be eligible to receive a credit for up to 15% of total inventory purchase as Carryover Protection ("Carryover Protection Inventory"), i.e., Univar will agree not to be paid for up to 15% of purchased product in the current payment cycle. Buyer will retain the Carryover Protection Inventory (not return, retaining title and risk of loss), and Univar will re-bill for that inventory in the next payment cycle. This offer excludes (a) non-returnable items in current season, unless otherwise specified, (b) any partial bulk containers and bulk shipments, and (c) cash purchases. Univar will credit the inventory and re-bill for the item. Payment will be due and payable in the current year. All re-billing will be based on the current year's in-season dealer price schedules; product may be re-billed only once. Re-billing must be completed within thirty (30) days of due dates.
- Buyer may also be eligible, at Univar's sole and absolute discretion, to Rebill other unsold in-season products up to a maximum of 15% (Rebill and Product Returns sum total, cannot exceed 15% of inventory purchased) of the amount due for the applicable Recon period (i.e., the reconciliation period/payment due date for each payment period). Only Univar sold Product can be Rebilled. Any Rebilled and/or Returned amount exceeding 15%, needs to be immediately paid for, or Univar at its discretion may impose a carrying charge for the length of time it is unpaid. Any Rebilled product can only be rebilled once to a reconciliation date within 12 months.

- Buyer may also be eligible, at Univar's sole and absolute discretion, to return product for a credit to Univar up to a maximum of 15% (Rebill and Product Returns sum total, cannot exceed 15%) of the amount due for the applicable reconciliation period. All returns may be subject to a 10% (Prairie) / 5% (Guelph, and BC Ag) restocking charge and completed at Univar's sole and absolute discretion. Product may only be returned if: (a) Univar agrees, (b) has at least one year remaining before expiration, (c) it is in a saleable condition, (d) Univar deems (in its sole discretion) that there is market demand to enable it to resell the product, and (e) proper documentation is included (i.e. Dangerous Goods Information and Procedures). The following are not eligible for return; (a) Cash purchases, (b) Special order, (c) any non-Case lots, and (d) any product originally not sold by Univar (Buyer upon Univar's request, must present documentation showing product was purchased from Univar).

- Freight on all returned product will be the responsibility of the Buyer.
- Univar may at its discretion audit inventory condition and quantity.
- All returns must be authorized in advance.
- Univar reserves the right to move inventory from customers with excess to another who requires stock, prior to the end of applicable use season. Failure to co-operate with such requirements will invalidate a customer's ability to request inventory protection or inventory returns.

8. BULK CONTAINERS

- A refundable deposit is charged on all bulk containers. Deposits are refunded upon return to appropriate authorized depots or Univar locations, provided the containers must be returned within 180 days of original delivery, or Univar may (in its sole discretion) retain the deposit. If shipped direct, Univar must be notified for proper crediting of account.
- Totes must be pumped empty, free from damage or misuse with all fittings intact and unbroken.
- Univar will set off deposit due where containers have broken seals or other damages.
- Proper shipping documents must accompany empty containers.
- Supplier Container Return Contacts:
- BASF products (Customer return direct; Univar to credit) – call +1 800 253 4536 or fax +1 800 333 1916.
- Dow products (Customer return direct; Univar to credit) – call +1 800 567 6661.
- Monsanto products (Customer return direct; Monsanto to credit) – call +1 800 667 4944.
- Nufarm Cleanstart 450L totes only (Customer return direct; Univar to credit) – call +1 800 667 4944.
- Omex products (Customer return direct; Omex to credit) – call +1 866 860 9660. Syngenta products (Customer return direct; Syngenta to credit) – call +1 800 265 3554

9. TITLE AND RISK OF LOSS

- Refer to Section 6, Univar's Standard Terms and Conditions of Sale, attached.

10. INSURANCE

- Buyer is responsible for insuring all products in its care with respect to any loss, damage or destruction.
- Re-billed Products under the Carryover Protection Program remain the property of the Buyer, and should be insured and protected against loss by Buyer.

11. PRODUCT STEWARDSHIP

- See Section 11 of Univar's Standard Terms and Conditions of Sale, attached. In addition, Buyer acknowledges that pest control products are to be used only in accordance with the directions on the label. It is an offence under the Pest Control Products Act to use products in a way that is inconsistent with the directions on the label. The user assumes the risk to persons or property that arises from any such use.



STANDARD TERMS AND CONDITIONS OF SALE

PLEASE READ CAREFULLY AND RETAIN

1. **TERMS.** These Terms and Conditions of Sale, together with any Credit Application signed by Buyer, and any invoices issued by Seller, constitute the exclusive contract between Buyer and Seller and supersede all previous oral or written communications such that there are no terms, understandings, or agreements between the Seller and Buyer regarding the Products, other than those stated herein. Seller's commencement of work on the Products subject to Buyer's order, shipment of the Products, or performance of all or a portion of the services subject to an order, whichever occurs first, shall constitute an acceptance by the Seller of Buyer's purchase order and these Terms and Conditions by the Buyer without any additional or different terms. These Terms and Conditions may not be altered amended, nor waived except in writing signed by an officer of the party to be bound thereby. Acceptance of Buyer's purchase order is subject to acceptance of the express Terms and Conditions contained herein. If any provisions of Buyer's purchase order or other writings are different from or are otherwise in conflict with these Terms and Conditions, these Terms and Conditions shall govern and the terms contained in Buyer's purchase order or other writings are expressly rejected by Seller.
2. **PRICE.** Quoted prices are based upon present taxes (other than sales taxes), freight rates, applicable Tariff classifications and import duties. Buyer shall pay any increased costs resulting from changes in such taxes, rates, classifications and duties or from Buyer's selection of means of transportation. Buyer shall pay or reimburse Seller for all taxes or other charges by any applicable national, state, provincial, or municipal government upon the sale, use, production, or transportation of Product, which Seller is required to pay or collect.
3. **PRICE ADJUSTMENTS.** Seller may adjust Product prices at any time. Buyer may suspend orders immediately upon notice of a price increase. In the event price protection is stated in a written agreement between the parties, Seller may temporarily suspend such Product's price protection in extraordinary market conditions as determined by Seller in its discretion. Seller shall reinstate the Product's price protection upon Seller's determination that the market condition for the Product is no longer extraordinary.
4. **PAYMENT.** Payment terms are net 30 days from date of invoice. Past due balances are subject to a late payment charge of 18% per annum (i.e. 1 1/2% per month), or the maximum amount permitted by applicable law, whichever is less. Buyer shall pay all charges, costs and legal fees incurred in collecting amounts owed.
5. **CONTAINERS.** Seller retains ownership of all returnable containers. Buyer may use the containers only for the storage of original contents. Buyer shall return the containers to Seller empty and in good condition within 90 days from the date of delivery. Buyer shall pay a deposit on all returnable containers. Seller shall credit the deposit, less handling fee, to Buyer's account if Buyer returns the containers at the Buyer's risk, cost and expense to the Seller's designated return point in good condition within 90 days. If not returned within 90 days, Seller may reject the containers and retain the full amount of the deposit.
6. **TITLE AND RISK OF LOSS.** Title and risk of loss for Products transfers to Buyer when the Product is made available to the Buyer at Seller's shipping point, unless Products are shipped in Seller's vehicles in which case title and risk of loss transfers to Buyer when the vehicle first enters Buyer's property. Buyer shall unload railroad tank cars within 48 hours (Sundays and holidays excepted).
7. **MEET OR RELEASE.** If during the period covered by these Terms and Conditions, Buyer receives a bona fide offer to purchase Product qualifying as Canadian origin goods under NAFTA of equal quality and quantity on the same terms and conditions as those herein, and Buyer has provided Seller with written evidence satisfactory to Seller of such offer, Seller will either: (i) meet such other offer during the time in which it continues, or (ii) permit Buyer to purchase the Product from such seller during such time.
8. **WARRANTY.** The Buyer represents that it is familiar with the characteristics, qualities and uses of the Products it is purchasing from the Seller and that the Buyer is not relying on the Seller's skill or judgement to select or furnish Product s for any particular purpose. Seller warrants that Seller branded Products conform to Seller's published specifications at the time of delivery. Seller warrants that services provided by Seller will be consistent with Seller's standard specifications or, if none, with Seller's standard practices. Buyer acknowledges that Seller acts as a distributor for Products not branded by Seller (Resale Products) and that matters relating to the quality of the Products are not within Seller's control. Accordingly, SELLER MAKES NO WARRANTIES WHATSOEVER CONCERNING RESALE PRODUCTS. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES OR CONDITIONS EXPRESS OR IMPLIED. SELLER EXPRESSLY EXCLUDES ANY IMPLIED OR EXPRESS WARRANTIES OR CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.
9. **REMEDIES.** Seller's liability for nonconforming Products is exclusively limited, at Seller's option, to replacement of the defective Products or refund of the purchase price of such Products. Seller's liability for any defective or negligent service is limited to Seller re-performing the service or a refund of an amount not to exceed the amount paid for the service, or, if the services were provided free of charge, to pay an amount not to exceed the amount paid for the Products to which the services related in the 12 months prior to the event of the liability.
10. **LIMITATION ON LIABILITY.** IN NO EVENT WILL SELLER BE LIABLE FOR DIRECT INCIDENTAL, SPECIAL OR CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES FROM ANY CAUSE OR FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF WHETHER THE CLAIM ARISES FROM ACTUAL OR ALLEGED BREACH OF WARRANTY, INDEMNIFICATION, BREACH OF CONTRACT, NEGLIGENCE INCLUDING PRODUCT LIABILITY, CONTRIBUTION OR ANY LEGAL THEORY AND IN NO EVENT WILL SELLER BE LIABLE FOR LOST PROFITS, COSTS OR LOSSES NOT ASSOCIATED WITH DIRECT PHYSICAL DAMAGE TO PROPERTY FOR ANY CLAIMS MADE UNDER OR RELATED TO THE SALE OF PRODUCTS OR SERVICES TO BUYER. IN NO EVENT SHALL SELLER'S LIABILITY FOR DIRECT PHYSICAL DAMAGE OR LOSS OF ANY TYPE EXCEED THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES THAT ARE THE SUBJECT OF ANY CLAIMS MADE BY BUYER.

11. **INDEMNITY**. Buyer agrees to defend, indemnify and hold Seller, its officers, directors, agents, and employees harmless from all claims, demands, actions and causes of action relating to personal injury or property damage to third parties, including lawyer's fees and actual costs ("Claims") incurred as a result thereof, to the extent of its negligence or arising after delivery of the Products to Buyer. Seller agrees to defend, indemnify and hold Buyer, its officers, directors, agents, and employees harmless from Claims to the extent of its gross negligence.

12. **CLAIMS**. Any claim for shortage or non conforming Products must be made in writing to Seller within 30 days after Buyer's receipt of the Product. Any claim for non-delivery of Product must be made within 30 days after the date upon which the Product was to be delivered. As to any claim not reasonably discoverable within such 30 day period (including claims discoverable only in processing, further manufacture, other use or resale), such claim must be in writing and received by Seller within 180 days after Buyer's receipt of the Products. Failure of Seller to receive written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Buyer of such claim. Products may not be returned without Seller's permission and transportation for return will not be paid by Seller unless authorized in advance. Amounts owing to or payable by either party under these Terms and Conditions shall be deemed finally reconciled on the first anniversary of the final delivery under these Terms and Conditions and any outstanding rights of either party to receive overpayments or under payments including rights to unclaimed credits or refunds shall expire on such date.

13. **FORCE MAJEURE**. Seller is not liable for nonperformance or delay in performance caused by circumstances beyond Seller's control ("Force Majeure Event"). A Force Majeure Event includes, without limitation, (a) acts of God, war, riots, fire, explosions, floods, strikes, lockouts, injunctions, accidents, Product short supply, unforeseen shutdown of major sources of supply, breakage of machinery or apparatus, or national emergency, (b) Seller's inability to obtain at prices Seller deems in its discretion to be commercially reasonable, the Product, fuel, power, raw materials, labour, containers or transportation facilities, (c) the occurrence of any unforeseeable contingency making performance impracticable, or (d) compliance in good faith with any applicable governmental statute, regulation, decree, rule or order. Any delivery so suspended shall be cancelled without liability, but these Terms and Conditions shall otherwise remain unaffected. This section does not apply to payment obligations.

14. **QUANTITY**. Seller is not obligated to deliver in any month more than a proportionate part of the maximum quantity of Product specified, determined by dividing such maximum quantity by the total number of months included in the period of performance. When in the opinion of Seller there is a period of shortage of supply of said Product for any reason, Seller may allocate its available supply of Product among any or all of its various customers upon such basis as it shall deem fair and practicable, with no liability on its part for failure to deliver the quantity or any portion specified.

15. **PRODUCT STEWARDSHIP**. Buyer agrees that Products will be used, handled, stored, transported and disposed of in such a manner as is necessary for the safety and protection of persons, property and the environment, and in accordance with the manufacturer's recommendations and applicable laws and regulations. Buyer agrees to instruct its employees with respect to, and to make certain that they know and understand, procedures necessary to enable them to comply with the requirements set forth herein and make certain that they are adequately trained in the use, handling, storage, transportation and disposition of the Products. Buyer further agrees to deliver the most recent edition of Product literature, including Material Safety Data Sheets, to its employees and customers and to maintain a written record of such deliveries. Buyer shall only sell to those who can handle, use, store, transport and dispose of Products safely.

16. **TERMINATION**. Any order or delivery may be terminated or suspended, (a) by either party if any proceeding under bankruptcy is brought by or against the party, (b) by a party if the other party defaults in its material obligations and such default is not cured within a reasonable time if such default is curable, or (c) by Seller if it has reason to doubt the ability or willingness of Buyer to pay for the Products.

17. **ARBITRATION**. All disputes arising out of or in connection with this contract, or in respect of any defined legal relationship associated therewith or derived therefrom, shall be referred to and finally resolved by binding arbitration before a single arbitrator under the rules of the British Columbia International Commercial Arbitration Centre. The appointing authority shall be the British Columbia International Commercial Arbitration Centre. The case shall be administered by the British Columbia International Commercial Arbitration Centre in accordance with its Rules. The place of arbitration shall be Vancouver, British Columbia, Canada. The arbitrator may not award any damages in excess of compensatory damages and subject always to the Limitation of Liability set out in paragraph 10 above.

18. **GOVERNING LAW AND JURISDICTION**. This contract shall be governed by and construed in accordance with the laws of the Province of British Columbia. The Purchaser and the Seller acknowledge that the Supreme Court of British Columbia shall have exclusive jurisdiction to resolve any claims between the parties, subject to the provisions of paragraph 17 above and attorn to the jurisdiction of that Court for all purposes. The application of the International Sale of Goods Act (British Columbia) to this contract is expressly excluded.