GENERAL TERMS & CONDITIONS
to
Sales Agreements & Confirmations

These General Terms & Conditions apply to any Sales Agreement ("Agreement") and any transaction confirmation ("Confirmation") entered into by GROWMARK, Inc. ("Seller") and any other party thereto ("Buyer") related to the sales of products by Seller to Buyer (the Agreement, any Confirmation, and these General Terms & Conditions are collectively referred to herein as the "Contract"). Buyer's transaction of business with Seller shall constitute and evidence Buyer's acceptance of these General Terms & Conditions without further evidence of acceptance by Buyer.

Contract Commitment Type

Contract commitment shall be identified in the Agreement or the Confirmation.

A committed Contract creates an obligation on part of Seller to sell and of Buyer to purchase the quantity of products specified in the Confirmation and in accordance with the terms specified in the Confirmation. Contract reconciliation and settlement provisions as specified in the Confirmation and these General Terms & Conditions shall apply upon failure of Buyer to take shipment of all products specified in the Confirmation. Types of committed contracts include, without limitation, forward, prepay, deposit and must/take contracts.

An uncommitted Contract establishes the price on the amount of products specified in the Confirmation for products shipped during the ship period. The Seller is not obligated to supply and the Buyer is not obligated to take shipment. At end of ship period identified in the Confirmation, the Contract is cancelled. Types of uncommitted contracts include pricing contracts.

Transportation Mode

The mode of transportation specified in the Confirmation. Transportation modes include transportation by road, rail and barge.

Product Weight

Product weight shall be determined at the point of origin unless otherwise specified. For road and railcar delivery the product weight shall be determined by the scale or metered weight measured at the point of origin. For barge delivery the weight of dry products shall be determined by the barge survey at the point of origin. For barge delivery the weight of liquid products shall be determined by origin survey if priced FCA or CPT (as described hereinbelow) and shall be determined by destination shore tank survey if priced DDP (as described hereinbelow), unless otherwise specified in the Confirmation.

Contract Quantity

The Contract quantity is determined based on the quantity and the transportation mode stated in the Confirmation:

- Road Transportation – the quantity stated in the Confirmation is the quantity covered by the Contract
- Rail Transportation Mode – the quantity stated in the Confirmation divided by the rail car load increment identifies the number of rail cars covered by the Contract
- Barge Transportation Mode (Dry Product, or "Dry") – the quantity stated in the Confirmation divided by the barge load increment identifies the number of barges cover by the Contract

- Barge Transportation Mode (Urea Ammonium Nitrate, or "UAN") – the quantity stated in the Confirmation is the quantity covered by the Contract

Load Increments

The load increment varies by the mode of transportation as follows:

Mode	US (Except NH3)	US NH3	CAN (Except NH3)	CAN NH3
Road	25	20	40	30
Rail	100	80	90	70
Barge (Dry)	1,500	---	---	---
Barge (UAN)	No Standard*	No Standard*	No Standard*	No Standard*

*For Barge (UAN), there is no standard load increment, and the load increment quantity shall be as specified in the Confirmation

Ship Period

The ship period of the Contract is the period of time identified in the Confirmation during which the products specified must be shipped.

Accessibility

If a shipment has been accepted or reconsigned to a destination which subsequently becomes inaccessible because of a condition which adversely affects the use of the road, rail or waterway between the origin and the destination, the Seller shall have the right to tender delivery of such shipment at an accessible intermediate point nearest to the intended destination, with an adjustment to the freight charges imposed. Seller's determination of inaccessibility and alternative destinations shall be in its sole discretion and final. In the event that operating conditions, such as weather, ice or similar obstacles, prevent or delay delivery, demurrage will apply pursuant to the carrier's standard requirements.

Price Basis, Title and Risk of Loss

The Confirmation shall identify the price basis, title and risk of loss by reference to the terms FCA, CPT or DDP.

FCA (previously referred to as FOB) indicates that the specified price is for products loaded on transporting vehicles at the origin specified in the Confirmation. The price is exclusive of freight to Buyer's destination. Freight to destination is not included in the price and Buyer is responsible for the freight cost to destination. Any additional costs resulting from demurrage, diversion, dead freight, in-transit delays, or other costs will be the responsibility of the buyer.

Title and risk of loss shall pass as follows:

- Transportation by road – Title to and risk of loss of the products identified in the Confirmation shall pass to Buyer as product progressively passes to the truck at the origin point.

- Transportation by rail – Title to and risk of loss of the products identified in the Confirmation shall pass to Buyer as product progressively passes to the rail car at the origin point.

- Transportation by barge (Dry or UAN) – Title to products identified in the Confirmation shall pass to Buyer upon full payment to Seller; risk of loss of the products shall pass to Buyer as the product progressively passes onto the barge at the origin point.

CPT (previously referred to as FOB plus freight) indicates that the price is inclusive of freight to the Buyer's destination specified in the Confirmation. Any additional costs resulting from demurrage, diversion, dead freight, in-transit delays, or other costs will be the responsibility of the Buyer.

Title and risk of loss shall pass as follows:

- Transportation by road – Title to and risk of loss of the products identified in the Confirmation shall pass to Buyer as product progressively passes to the truck at the origin point.

- Transportation by rail – Title to and risk of loss of the products identified in the Confirmation shall pass to Buyer as product progressively passes to the rail car at the origin point.

- Transportation by barge (Dry or UAN) – Title to products identified in the Confirmation shall pass to Buyer upon full payment to Seller; risk of loss of the products shall pass to Buyer as the product progressively passes onto the barge at the origin point.

DDP (previously referred to as DEL) indicates that the price is inclusive of freight to the Buyer's destination specified in the Confirmation. Freight to Buyer's destination is included in the price and Buyer has no further responsibility for freight cost to the destination. Any additional costs resulting from demurrage, diversion, or other cost will be the responsibility of the Buyer.

Title, risk of loss and delivery shall be as follows:

- Transportation by road – Title to and risk of loss of the products identified in the Confirmation shall pass to Buyer and delivery shall occur upon the arrival of the truck at the delivery point

- Transportation by rail – Title to and risk of loss of the products identified in the Confirmation shall pass to Buyer and delivery shall occur upon notice of constructive placement of the rail car at the destination point. Title and risk of loss for NH3 or Phosphoric Acid only shall pass to Buyer as provided in the Seller's supplier's terms and conditions. This supersedes any and all contrary claims.

- Transportation by barge (Dry or UAN) – Title to products identified in the Confirmation shall pass to Buyer upon full payment to Seller. Risk of loss of the products in the Confirmation shall pass to Buyer and delivery shall occur upon notice of constructive placement of the barge at the destination point

Contract Fulfillment and Reconciliation

Contract fulfillment varies, depending on the type of commitment applicable to the Contract:

- Uncommitted contracts (such as pricing contracts) – considered fulfilled at the earlier of when quantity shipped equals the Confirmation quantity, the end of the ship period specified in the Confirmation, or upon notification of cancellation from Supplier.

- Committed Contracts, Roll to Cash or Manual Fulfillment Terms (formerly referred to as Standard Committed Contracts) – considered fulfilled based on the transportation mode:

  Road Transportation Mode (≥300 short tons) – For Contracts with a quantity equal to or greater than 300 short tons, the Contract is considered fulfilled when the quantity remaining unshipped is less than the load increment for one truck. At the Buyer's discretion, Buyer may take shipment of the unshipped quantity specified in the Confirmation (if the shipment raises the total quantity shipped beyond the Confirmation quantity, the overage (amount over and above

the Confirmation quantity) shall be billed according to Seller's standard terms at the cash market price in effect at the time of shipment), or Buyer may consider the Contract fulfilled and request closing and reconciliation of the Contract; provided however, that Buyer must make its decision within one business day following notice from Seller or Seller shall be free to make such determination for Buyer and Seller's determination shall be binding upon Buyer.

Road Transportation Mode (<300 short tons) – For Contracts with a quantity less than 300 short tons, the Contract is considered fulfilled when the quantity remaining unshipped is less than the load increment for one truck. At the Seller's discretion, Buyer may be required to take shipment of the unshipped quantity specified in the Confirmation (if the shipment raises the total quantity shipped beyond the Confirmation quantity, the overage (amount over and above the Confirmation quantity) shall be billed according to Seller's standard terms at the contract price, plus any applicable storage fees), or Seller may consider the Contract fulfilled and proceed with closing and reconciliation of the Contract; Seller shall be free to make such determination for Buyer and Seller's determination shall be binding upon Buyer.

Rail Transportation Mode – the Contract is considered fulfilled when the number of rail cars that have actually shipped equals the number of rail cars covered by the Contract. The number of rail cars covered by the Contract equals the Confirmation quantity divided by the load increment for one rail car.

Barge Transportation Mode (Dry) – the Contract is considered fulfilled when the number of barges that have actually shipped equals the number of barges covered by the Contract. The number of barges covered by the Contract equals the Confirmation quantity divided by the load increment for one barge.

Barge Transportation Mode (UAN) – the Contract is considered fulfilled when the quantity shipped is within ten percent (10%), plus or minus, of the Confirmation quantity. Product shipped in excess of ten percent (10%) of the Confirmation quantity shall be billed according to Seller's standard terms at the cash market price in effect at the time of shipment.

- Committed Contracts, Next Contract Fulfillment Terms (formerly referred to as Committed Contracts With Roll Provision) – considered fulfilled based on the transportation mode:

  Road Transportation Mode (≥300 short tons) – Seller will "roll" shipped quantities that exceed the original Contract quantity to the oldest available unfulfilled Contract of the identical product/ source and similar ship period. Similar ship period will be defined at the Seller's sole discretion. Any quantity shipped that exceeds the Contract quantity will be applied to the oldest eligible unshipped Contract for the identical product/ source and similar ship period until there are no additional eligible Contracts available. Buyer will be required to ship the entire Contract quantity for each Contract deemed similar by Seller until only one active Contract remains. Once only one Contract remains for the identical product/ source and similar ship period and the remaining quantity is less than one truckload, at the Buyer's discretion, Buyer may take shipment of the unshipped quantity specified in the Confirmation (if the shipment raises the total quantity shipped beyond the Confirmation quantity, the overage (amount over and above the Confirmation quantity) shall be billed at the Seller's option of either the contract price or cash market price in effect at the time of shipment.), or Buyer may consider the Contract fulfilled and request closing and reconciliation of the Contract; provided however, that Buyer must make its decision within one business day following notice from Seller or Seller shall be free to make such determination for Buyer and Seller's determination shall be binding upon Buyer.

Road Transportation Mode (<300 short tons) – Seller will "roll" shipped quantities that exceed the original Contract quantity to the oldest available unfulfilled Contract of the identical product/ source and similar ship period. Similar ship period will be defined at the Seller's sole discretion. Any quantity shipped that exceeds the Contract quantity will be applied to the oldest eligible unshipped Contract for the identical product/ source and similar ship period until there are no additional eligible Contracts available. Buyer will be required to ship the entire Contract quantity for each Contract deemed similar by Seller until only one active Contract remains. Once only one Contract remains for the identical product/ source and similar ship period and the remaining quantity is less than one truckload, at the Seller's discretion, Buyer may be required to take shipment of the unshipped quantity specified in the Confirmation (if the shipment raises the total quantity shipped beyond the Confirmation quantity, the overage (amount over and above the Confirmation quantity) shall be billed according to Seller's standard terms at the contract price, plus any applicable storage fees), or Seller may consider the Contract fulfilled and proceed with closing and reconciliation of the Contract; Seller shall be free to make such determination for Buyer and Seller's determination shall be binding upon Buyer.

Rail Transportation Mode – Same as Committed Contracts, Roll to Cash or Manual Fulfillment Terms.

Barge Transportation Mode (Dry) – Same as Committed Contracts, Roll to Cash or Manual Fulfillment Terms.

Barge Transportation Mode (UAN) – Same as Committed Contracts, Roll to Cash or Manual Fulfillment Terms.

Invoices and Payment Terms

Prepayment Invoices. Contracts that require prepayment or deposit prior to actual shipment of products, include forward, prepay and deposit contracts. Prepayment requirements, including amounts and due dates, are specified in the Confirmation. Prepayment invoices are due net five (5) days from date of the invoice unless otherwise specified on the invoice.

Shipping Invoices. Invoices are issued upon shipment of products pursuant to the Contract. Invoices are due net fifteen (15) days for road and rail shipments, net one (1) day for barge shipments, or as otherwise specified on the invoice. Shipping invoices for products on Contracts that require a prepayment or deposit shall provide for a credit line for the prorated amount of the prepayment based on the quantity shipped.

Finance Charges. Buyer shall pay Seller finance charges on a monthly basis on any unpaid amounts which remain unpaid for the prior month (or the undisputed portion thereof in the case of a good faith dispute). Finance charges shall accrue at a rate one and one-half percent (1.5%) per month (or the maximum rate permitted under the governing law, whichever is less).

Disputes. If Buyer disputes in good faith the accuracy of any invoice under the Contract, it shall nevertheless pay the full amount when due. Upon giving written notice of the basis for a dispute, the parties shall promptly work to resolve the dispute. Any dispute with respect to an invoice is waived by Buyer unless Seller is notified of such dispute within thirty (30) days after the invoice is rendered.

Failure to Accept. Except as otherwise expressly provided for herein, if Buyer fails to accept delivery of all or part of the total amount of products to be delivered pursuant to the Contract for the relevant delivery month, Buyer shall pay to Seller, an amount for each of the products of such deficiency equal to (i) the price stipulated in the Confirmation plus any storage, transportation or other costs reasonably incurred by Seller in retaining and reselling the products, less (ii) the commercially reasonable market price at which Seller is able, or absent an actual sale, would be able (FCA, CPT, or DDP) to sell or otherwise dispose of the products at the time of

Buyer's breach; except that if such difference is zero or negative, then neither Party shall have any obligation to make any deficiency payment to the other. Seller shall not be required to enter into any actual replacement transaction in order to determine the such market price. Buyer shall exert commercially reasonable efforts to mitigate any damages to Seller hereunder. Each party stipulates that the payment obligations set forth in this section for the damages incurred are a reasonable approximation of the anticipated harm or loss and acknowledges the difficulty of estimation or calculation of actual damages, and Buyer hereby waives the right to contest such payments as unenforceable, an unreasonable penalty or otherwise.

Credit Assurance

Seller may, from time to time, request that Buyer provide Seller with credit assurance if at any time Seller has reasonable grounds for insecurity concerning Buyer's ability to perform any of its obligations under the Contract. If Buyer fails to provide such assurance within two (2) business days of the request, then Seller may, in its sole discretion, withhold or suspend its obligations under the Contract, accelerate any amounts Buyer owes to Seller hereunder but not yet otherwise due, or declare such failure an event of default hereunder and exercise any or all other legal, equitable or contractual remedies available to Seller.

Taxes and Other Liabilities

Seller shall pay or cause to be paid all taxes, royalties, fees, licenses, or charges that are imposed by any federal, state or local governmental authority relating to the production, sale, use, loading and delivery of the products to Buyer or in any way accrued or levied prior to delivery at the delivery point specified herein. Buyer shall pay or cause to be paid all taxes, royalties, fees, licenses, or charges that are imposed by any federal, state or local governmental authority that are imposed with respect to the products at or after delivery at the delivery point specified herein. Buyer shall remit such charges to Seller if Seller has included such charges in an invoice submitted to Buyer, or directly to the appropriate governmental authority if Seller is not required under the applicable law to collect such charges from Buyer. If a Buyer claims an exemption from such charges, it shall furnish resale certificates or other reasonably acceptable documentation, in Seller's discretion, which demonstrate Buyer's right to claim such exemption. Buyer shall use commercially reasonable efforts to minimize such charges.

Storage

For all types of committed contracts, the quantity of products specified therein must be shipped during the ship period. Any unshipped quantity remaining at the end of the ship period as a result of the Buyer's failure to take delivery shall be stored by Seller on Buyer's behalf, unless Seller exercises its option to cancel or reprice the Contract. Storage fees shall be assessed on the unshipped quantity at the Seller's sole discretion. The ship period shall be extended for an additional calendar month period on the same terms. Any quantity of products covered by the Contract which remains unshipped at the end of the extended ship period as a result of Buyer's failure to take delivery shall be subject to further storage, cancellation, or repricing by Seller. Storage, cancellation or repricing shall continue to be reviewed and assessed in the manner described hereinabove until such time as the Contract is fulfilled or the Seller's option to cancel is exercised. Any storage fees invoiced under these General Terms & Conditions may be invoiced independently of, or concurrently with, Product invoices.

Demurrage

All transportation modes - Buyer shall be responsible for all demurrage based on the demurrage policy of the applicable carrier (or its agent) in effect at the time the demurrage is incurred.

Option to Cancel

Seller shall notify Buyer if Seller's option to cancel shall be exercised. Upon Seller exercising its option to cancel, Seller shall consider the Contract fulfilled, the unshipped Contract quantity shall be cancelled, prepayment or deposit balances shall be applied to amounts owed by Buyer under the Contract and any remaining prepayments or deposits shall be refunded to Buyer, and any storage fees or other amounts owed under the Contract after application of prepayments and deposits shall be invoiced to Buyer.

Default and Remedies

Any failure by Buyer or any affiliate of Buyer to perform its obligations under the Contract or any other agreement between Buyer and Seller, the failure of Buyer to provide any credit assurance required by Seller, any misrepresentation on the part of Buyer, any other breach of the Contract by Buyer, or any bankruptcy event related to Buyer shall constitute an event of default. In the event of a default hereunder, Seller shall have the right to (i) immediately terminate the Contract, in whole or in part, without notice or further obligation hereunder, (ii) offset any amounts owed to Buyer against amounts owed to Seller by Buyer under this or any other agreement, (iii) withhold or suspend any payments or deliveries owed to Buyer, to accelerate any amounts owed by Buyer, (iv) liquidate any or all outstanding transactions under the Contract, provided, however, where the event of default is a bankruptcy event and is governed by a system of law which does not permit termination to take place upon or after the occurrence a bankruptcy event in accordance with the terms of the Contract, an early termination date shall be deemed to have occurred immediate prior to any such event of default and no prior written notice is required, (v) recover all costs of enforcement of the Contract, including all court costs and attorneys' fees, and (vi) pursue all other rights and remedies available under the Contract, at law, or in equity. All rights and remedies of Seller shall be cumulative.

Indemnity

Each party agrees to indemnify, defend, and hold harmless the other party, and any of said other party's affiliates, directors, officers, employees, agents and permitted assigns, from and against all claims, losses, liabilities, damages, judgments, awards, fines, penalties, costs and expenses (including reasonable attorneys' fees and disbursements) directly incurred in connection with or directly arising out of:

(a) any breach of representation or warranty or failure to perform any covenant or agreement in the Confirmation by said party;

(b) any violation of applicable law, regulation or order by said party;

(c) the delivery of the applicable products by said party when it is deemed to have title or risk of loss hereunder (except to the extent caused by the negligence or willful misconduct of the other party); or

(d) any claims by a third party arising out of any act or omission by said party.

Limitation of Liability

EXCEPT AS EXPRESSLY SET FORTH HEREIN, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED BY SELLER. NOTWITHSTANDING ANY OTHER PROVISION IN THE CONTRACT, SELLER SHALL NOT BE LIABLE TO THE BUYER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR REVENUE OR LOSS OF USE OF EITHER, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY

CLAIM OF BUYER ARISING HEREUNDER SHALL BE RELEASED AND FOREVER WAIVED IF NOT BROUGHT WITHIN SIXTY (60) DAYS AFTER THE CREATION OF SUCH CLAIM.

Miscellaneous

Force Majeure. Seller shall not be liable for, nor shall be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond Seller's reasonable control, including without limitation, acts of god, strikes, labor disputes, acts of war or terrorism, market disruptions, shortages of materials and supplies, market developments, transportation disruptions or delays, or other interference with performance by Seller. In such event, Seller shall have the right to delay or suspend performance of all or part of the Contract or immediately terminate the Contract or any part thereof without further obligation.

Entire Agreement; Amendment. The Contract constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes and cancels all prior agreements and understandings with respect thereto. The obligations of a party to the Contract shall be binding on the parties and their successors and permitted assigns. The Contract may not be amended or modified by Buyer except in a written instrument duly signed by Seller. No terms or provisions in any other document or correspondence, including without limitation, any invoice, terms, conditions, letter, email, facsimile transmission or other documentation or communication, shall have any effect or be binding upon the parties. Seller shall have the right to amend these General Terms & Conditions from time to time, in Seller's sole discretion. These General Terms & Conditions shall be effective and binding upon Buyer without any requirement of notice to Buyer or execution of any document. A copy of these General Terms & Conditions shall be provided to Buyer upon Seller's receipt of a written request therefore from Buyer. Seller may also post amendments hereof on a website of Seller established for such purpose, in Seller's discretion.

Waiver; Severability. No delay or failure by Seller to exercise any right or remedy shall constitute an abandonment of any such right and no waiver of any default shall constitute a waiver of any later default. In the event that any provision of the Contract shall be held to be void, voidable or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

Governing Law; Jurisdiction. The Contract shall be governed by the laws of the State of Illinois, without regard to the conflicts of laws. Any dispute arising hereunder shall be brought only in the federal or state courts located in Illinois, all protest based on jurisdiction or venue being hereby waived.

Jury Trial Waiver. BOTH PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY JUDICIAL ACTION ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATING TO THE CONTRACT.

Assignment. Buyer may not assign its rights or obligations under the Contract without the prior written consent of Seller.

Compliance with Law. Buyer shall comply with all applicable federal, state and local laws, regulations, rules and ordinances.

Time of the Essence. Buyer acknowledges and agrees that time is of the essence in Buyer's performance of the Contract.

Notices. Any notice provided for in the Contract shall be in writing and shall be deemed given when personally delivered, the day following delivery by electronic mail, or three (3) days after being sent by certified mail, return receipt requested and postage prepaid.