

**TRADE TERMS AND CONDITIONS****on operation and use of the GrainTerminal Internet Portal and its related services and contracts entered into within the GrainTerminal Internet Portal,**

established and operated by the company GrainTerminal s.r.o., Identification Number: 053 72 585, with registered office at Drnovská 1118 / 53a, Ruzyně, 161 00 Prague 6, registered in the Commercial Register managed by the Municipal Court in Prague, Section C, Entry 262633

effective from 23.06.2017

**1. INTRODUCTORY PROVISIONS****1.1. Definitions**

For the purposes of the present Trade Terms and Conditions and contracts entered into within or in connection with the GrainTerminal Internet Portal, the following terms are defined as follows:

- 1.1.1. Buyer** – a Verified user who demands and / or purchases Goods on the Portal;
- 1.1.2. Seller** – a Verified user who offers and / or sells Goods on the Portal;
- 1.1.3. Contracting Party(s)** – a Seller and / or a Buyer who have entered into a Purchase Contract through the Portal;
- 1.1.4. Purchase Contract** – purchase contract concluded through the Portal between the Buyer and the Seller;
- 1.1.5. Conclusion of Purchase Contract** - the moment of accepting the offer or Verified User's business counteroffer for the sale or purchase of Goods through the Portal by another Verified User who is interested in buying or selling the Goods;
- 1.1.6. Goods** - agricultural crop commodities that can be offered and sold through the Portal and / or demanded and purchased, especially food wheat, feed wheat, spring barley, winter barley, malting barley, oats, triticale, corn, feed peas, oilseed rape;
- 1.1.7. User** - a personal or a legal business entity, who uses the Portal and / or related services offered by the Operator on the basis of the Contract, either as a Registered User or a Verified User;
- 1.1.8. Registered User** - a personal or a legal business entity being a User, who is registered on the Portal but whose registration is not verified according to the Trade Terms and Conditions;
- 1.1.9. Verified User** - a personal or a legal business entity being a User with a verified and confirmed registration on the Portal by the Operator under the Trade Terms and Conditions that is registered for the value added tax under the legislation of the Czech Republic or another EU state;
- 1.1.10. Portal** – GrainTerminal Internet Portal established and operated by the Operator, which allows Users to particularly offer or sell and / or demand or purchase Goods and monitor the course of

business transactions and to use other services offered under the terms and conditions set forth hereinafter in the Trade Terms and Conditions;

- 1.1.11. Trade Terms and Conditions** - present Trade Terms and Conditions on operation and use of the Portal and its related services and contracts entered into within the Portal, which form an integral part of all contracts entered into through the Portal or in connection with it;
- 1.1.12. Operator** - the GrainTerminal Portal operator is GrainTerminal s.r.o., Identification Number: 053 72 585 registered office at Drnovská 1118 / 53a, Ruzyně, 161 00 Prague 6, registered in the Commercial Register managed by the Municipal Court in Prague, Section C, Entry 262633, belonging to the business group PAWLICA;
- 1.1.13. Contract** - the contract to provide Portal services and mediation within the Portal, concluded between the Operator and the User;
- 1.1.14. Remuneration for Mediation** - Operator's remuneration fee for the mediation of a Purchase Contract through the Portal amounting to 2% of the purchase price, exclusive of VAT, as agreed between the Seller and the Buyer in the Purchase Contract upon its conclusion, belonging to the Operator under the conditions set forth hereinafter in the Trade Terms and Conditions.

## **1.2. Trade Terms and Conditions**

- 1.2.1.** Trade Terms and Conditions are an integral part of any and all contracts entered into within or in connection with the Portal, in particular the Contracts and Purchase Contracts. Trade Terms and Conditions govern the mutual rights and obligations of the Operator and the User, the rights and obligations of Users in their use of the Portal and its services, as well as the rights and obligations of the Verified Users when executing and implementing Purchase Contracts through the Portal.
- 1.2.2.** Trade Terms and Conditions are available at [www.grainterminal.cz](http://www.grainterminal.cz). User may print or save the Trade Terms and Conditions by using respective web browser functions.

## **1.3. Portal and its characteristics**

- 1.3.1.** The Operator owns and operates the Portal, the purpose of which is specifically to allow an encounter between demand and supply of Goods, thus enabling direct contact between the Buyer and the Seller, with the support of the Operator. Portal enables:
- registration with subsequent verification of the User or the person authorized to act on behalf of the User according to the Trade Terms and Conditions;
  - Registered User to view the offers posted on the Portal (hereinafter referred to as "advertisements") in a limited extent, downloading a

Newsletter prepared by the Operator and using other services on the Portal that are not reserved to Verified Users only;

- Verified User to use all of the services provided within the Portal, in particular to participate in the trading of Goods on the Portal, i.e. offering or demanding Goods through the Portal, subsequently within the Portal conclude Purchase Contracts regarding Goods with other Verified Users, and monitor the course of such business transactions and communicate with other Verified User.

All services provided by the Operator within or in connection with the Portal are stated and specified in the Service Price List published on the Portal, including the indication of the category of Users who can use the individual service and any possible fee that the Operator is entitled to for the provision of this service by the Operator or his/her representation of a third party.

**1.3.2.** By operating the Portal the Operator arranges for the Verified Users conclusion of Purchase Contracts regarding Goods. However, the Operator shall not be liable for the failure to conclude Purchase Contract in any particular case and shall neither be liable for any damages caused to the Verified Users participating in the trading through the Portal as a result of the non-conclusion or the conclusion of the individual Purchase Contract. The Operator is not responsible for actions of the Verified Users in negotiating the conclusion of Purchase Contract and its subsequent implementation. The Operator is entitled to Remuneration for Mediation of purchase and sale within the Portal in accordance with the Trade Terms and Conditions. The Operator is entitled to remuneration upon the Conclusion of Purchase Contract.

**1.3.3.** The Operator does not participate in any way, except through operating the Portal, in the process of entering into the Purchase Contract between Verified Users. Following the Conclusion of Purchase Contract the Operator acts as a payment location provider and, in case the Buyer orders this additional service, he will provide the shipping of the Goods to a designated place for remuneration stated in the Shipping Price List. The Operator does not perform quality control of the Goods, except the cases defined by the Trade Terms and Conditions as part of the claims, nor is he further liable for the conclusion or fulfilment of Purchase Contracts concluded between Verified Users. However, the Operator undertakes that the purchase price for the Goods will be paid to the Seller, under the terms set out in these Trade Terms and Conditions, or returned to the Buyer in cases specified in the Trade Terms and Conditions.

## **2. GENERAL TERMS AND CONDITIONS FOR THE USE OF THE PORTAL AND ITS RELATED SERVICES**

### **2.1. Terms for the use of the Portal and its related services**

**2.1.1.** Viewing offers posted on the Portal and other content published there to a limited extent, as well as searching for offers using the

"demand" function on a limited scale, or using functions and services not reserved only to Verified Users, are Registered Users enabled upon the conclusion of a Contract. The User enters into the Contract with the Operator by completing the registration process on the Portal according to the Trade Terms and Conditions and from that moment the Trade Terms and Conditions become binding on him/her.

**2.1.2.** Only Verified Users may participate in trading and enter into Purchase Contracts on the Portal or use other services reserved by the Operator to Verified Users only.

**2.1.3.** Users have no legal entitlement to register or to use the Portal. In case the User violates the Trade Terms and Conditions, the Contract or the Purchase Contract concluded through the Portal, and in other cases defined by the Trade Terms and Conditions, the Operator reserves the right at any time at his discretion to restrict or terminate User's access to the Portal and furthermore not to authorize the User to register, or to withdraw from the Contract with existing User, to cancel his registration or to restrict his access to certain services.

## **2.2. Registration and verification of registration**

**2.2.1.** Without impact on Article 2.1.3 of the Trade Terms and Conditions, only the following are entitled to register on the Portal:

2.2.1.1. personal self-employed entities, who have full legal capacity and are over 18 years of age; and

2.2.1.2. legal entities in business that are registered in the Commercial or other public register;

and are registered for the value added tax under the legislation of the Czech Republic or another EU state and are not in liquidation or have not been ruled on as bankrupt.

**2.2.2.** Registration is free of charge and occurs once the User completes all requested data and documents into the registration form accessible through the Portal, confirming that s/he agrees with the Trade Terms and Conditions, and completes the other registration steps the Portal takes him through and finishes registration by clicking the "Register" button. In the context of the registration of the User, which is a legal entity, poss. personal entity, who would like to be represented relative to his/her activities within the Portal, the User is required to provide inter alia information about the persons authorized to represent him/her to enter into the Purchase Contracts through the Portal, as well as persons authorized to transfer or receive Goods traded through the Portal, which should include at least a name, surname and date of birth. The registration of a legal entity may be carried out only by its statutory body or by another person authorized to act on behalf of the legal entity, in such a case this person proves in legally relevant manner his/her authorization.

**2.2.3.** The User in the context of the registration is obligated, inter alia, to include into the registration form: (i) a copy of the document

certifying the authorization of the person to represent the User at registration, if the User is represented at the registration and the registration is not performed by the User's statutory body that is registered in the Commercial or other public register on the day the registration is completed; and (ii) a copy of the certificate of registration to value added tax.

- 2.2.4.** By registering at the Portal the User gives the Operator consent to issue tax documents in connection with the Purchase Contract on his/her behalf. Confirmation of such consent and authorization granted to the Operator pursuant to provisions of §28 par. 6 of Act No. 235/2004 Coll., on Value Added Tax, as amended, is part of the Confirmation of the conclusion of the Contract of Portal services provision and mediation within the Portal (hereinafter referred to as "Confirmation of Contract conclusion"), which the User signs and the signed original delivers to the Operator in accordance with Article 2.2.9. of the Trade Terms and Conditions therein under.
- 2.2.5.** The User is obliged to state in the registration whether he possesses a meter (scale) certified by a recognized metrology institute, e.g. ČMI (hereinafter referred to as a "certified gauge"), and if so, he is obliged to fill in the type of the certified gauge and the date the certificate proving this gauge to be certified was issued by a recognized metrology institute; the User is required to use this certified gauge when weighing the Goods in the process of implementation of Purchase Contracts.
- 2.2.6.** In the registration process, the User is obligated to enter all required information fully and truthfully and to include all required documents that correspond with reality, otherwise the registration will not be verified and confirmed by the Operator or will be cancelled later without further notice. In the event of any changes in the data provided in the registration form as well as in the attached documents, the User is obligated to notify the Operator without undue delay, e.g. by direct modification of the data in his/her user account on the Portal. Similarly, this also applies to documents submitted during the registration, which are later modified, or more precisely updated (by inserting new or updated versions of documents).
- 2.2.7.** At the time of registration the User chooses a login name and password. At the same time, the User chooses a designation based on his/her trade name or name, which is made available to all other Users on the Portal and under which s/he takes actions within the Portal. Such actions are deemed to have been made by the User and are legally binding. The User ensures that the login name and password for his/her user account on the Portal are not available to unauthorized third parties and, if such occurs, will be liable for all damages resulting therefrom, whether to the Operator or other Users. The login name and password are not made available to other Users on the Portal.

- 2.2.8.** After confirming the registration process with the button "Register", the User or the personal entity authorized to act on the Portal on behalf of the User, receives to the stated telephone number via SMS a unique code, which the User or the personal entity authorized to act on behalf of the User, because of the identity authentication, use for the first access into the user account on the Portal within 24 hours from the delivery of the unique code - this is the completion of the registration on the Portal; otherwise the User's incomplete registration is cancelled by the Operator. By signing up in such manner, the User becomes a Registered User.
- 2.2.9.** After the registration has been completed the Registered User is sent to the e-mail address provided by him/her a Confirmation of the conclusion of the Contract. The User is obligated to deliver the signed confirmation to the Operator for the purpose of verification of registration by the Operator within seven (7) calendar days since the registration has been completed, either by postal service or personally, unless the Operator and the Registered User agree otherwise. Otherwise, the registration of the Registered User cannot be verified and confirmed by the Operator.
- 2.2.10.** The process of verification and confirmation of the completed registration of a Registered User is under the sole responsibility of the Operator, who verifies the existence and credibility of the Registered User in a manner that he/she deems fit within seven (7) calendar days of delivery of the signed Confirmation of Contract conclusion to the Operator. In order to do so, the Registered User is obligated to provide the Operator with all the necessary cooperation. Verification of the Registered User registration is confirmed within his/her user account, where the registration status is displayed as "verified," and the Registered User thus becomes a Verified User. However, the Operator has the right at his/her discretion to deny the verification and confirmation of the registration, and the User thereby remains a Registered User without the possibility to trade through the Portal or to use other services reserved to Verified Users only.
- 2.2.11.** Upon successful verification and confirmation of the registration, the Operator sends or personally hands over to the Verified User ten (10) free of charge sampling bags marked by the Operator, which Verified Users are obligated to use in implementation of Purchase Contracts in accordance with these Trade Terms and Conditions.

### **3. REMUNERATION FOR MEDIATION AND FEES FOR OTHER SERVICES**

#### **3.1. Remuneration for Mediation**

- 3.1.1.** For the mediation of the conclusion of the Purchase Contract through Portal the Operator is entitled to Remuneration for Mediation of 2% of the purchase price negotiated in the Purchase Contract upon its conclusion, exclusive of VAT, for each Purchase Contract concluded among Verified Users through or with the help of the Portal.

Entitlement to the Operator's Remuneration for Mediation arises at the moment of the Conclusion of Purchase Contract and this entitlement shall not perish even if the concluded Purchase Contract is not implemented or otherwise terminates in manner other than fulfilment.

**3.1.2.** The Remuneration for Mediation is to be paid by the Buyer and the Seller equally, i.e. each pays 1% of the purchase price agreed in the Purchase Contract, exclusive of VAT. The Operator shall issue to both the Buyer and the Seller a tax document for the relevant part of the Remuneration for Mediation, i.e. 1% of the purchase price negotiated in the Purchase Contract upon its conclusion, exclusive of VAT, by the conclusion of the Purchase Contract the Seller and the Buyer undertake to pay the respective part of the Remuneration for Mediation to the Operator's account within fifteen (15) calendar days from the date of issue of the tax document in accordance with the Trade Terms and Conditions. If, irrespective of the later due date, the Seller does not pay the relevant part of the Remuneration for Mediation on the basis of the issued tax document before the Operator has to pay the Seller the price, which the Buyer paid to the Operator's bank account in accordance with these Trade Terms and Conditions, the Operator shall set off its receivable against the Seller's payment of the Remuneration for Mediation against the Seller's obligation towards the Operator for the payment of the purchase price and the purchase price paid to the Seller pursuant to Article 4.4.1. of the Trade Terms and Conditions will be reduced by the relevant portion of the Remuneration for Mediation.

If, irrespective of the later due date, the relevant part of the Remuneration for Mediation is not paid on the basis of the issued tax document before the Operator's obligation to return the purchase price to the Buyer, which the Buyer paid to the Operator's bank account in accordance with these Trade Terms and Conditions, the Operator will account his/her obligation against the Buyer's payment of the Remuneration for Mediation for the purchase price and for the return of purchase price to the Buyer in accordance with Article 4.4.2. of the Trade Terms and Conditions will be reduced by the relevant portion of the Remuneration for Mediation.

If the purchase price for the Goods for any reason is not paid by the Buyer in accordance with these Trade Terms and Conditions or if it is in accordance with the Trade Terms and Conditions returned to the Buyer, the Operator does not have the obligation to return the relevant part of the Remuneration for Mediation neither to the Seller nor the Buyer.

**3.1.3.** The User is not entitled to set off his claim against the Operator's claim.

**3.1.4.** In the case of the Verified User's default with the payment of the relevant part of the Remuneration for Mediation, the Verified User is obligated to pay to the Operator, in addition to interest for late

payment a contractual penalty of 0.5% of the due portion of the Remuneration for Mediation for each commenced day of the delay within fifteen (15) calendar days from the Operator's call for the payment.

- 3.1.5.** In case that the Verified User does not pay the relevant part of the Remuneration for Mediation on the basis of the Operator's issued tax document by the due date, or the relevant part of the Remuneration for Mediation is not paid for any reason by Seller's reduction of the paid out purchase price, then until payment of the due portion of the Remuneration for Mediation is settled, the default Verified Users shall have limited ability to participate in the trading of Goods on the Portal, i.e. to offer or demand Goods within the Portal, and the Operator is entitled to cancel the Verified User's registration on the Portal without any further delay.

### **3.2. Fees for other services**

- 3.2.1.** The Operator may offer apart from mediation of the conclusion of Purchase Contract also other additional services to support trading on the Portal. For the provision of the service, the Operator is entitled to charge the User a fee in accordance with the Service Price List published on the Portal in the effective version as of the date of the service subscription. The fee is due within fifteen (15) calendar days from the date of issue of the relevant tax document to the User.

## **4. TRADING THROUGH THE PORTAL**

### **4.1. Advertisements**

- 4.1.1.** Verified Users on the Portal are entitled to offer the Goods by posting individual advertisements, indicating the information required by the relevant electronic form, in particular the specification of the Goods, the purchase price, the amount of the advance, if required, the delivery date and also the maximum daily limit of the possible Goods volume to be shipped. Verified Users are also entitled to demand Goods by using the Portal search functions, such as searching in advertisements (offers) by entering the selected parameters or the "save demand" function.
- 4.1.2.** The Goods in the advertisements must be specified in the electronic form at least in terms of type, quantity, quality indicators (characteristics) and purchase price per ton. The numeric value of the quality indicators must be stated as minimum or maximum according to the offer of the electronic form, possibly the Verified User shall indicate the offered tolerance for the given quality of the Goods. By posting an advertisement on the Portal the Seller honestly declares that the Goods offered by him/her exhibit the characteristics declared in the advertisement (offer) and that s/he has the Goods or at the declared time of sale will be available to him/her, while the Seller bears full responsibility for the damage caused to the Buyer, the

Operator or third parties, if it is shown that his/her affidavit is not true and/or incomplete.

- 4.1.3.** The Seller is authorized to offer for sale only the Goods to which s/he has, or will undoubtedly have the right of ownership no later than at the time of its transfer to the Buyer.

## **4.2. Conclusion of Purchase Contract; basic provisions**

- 4.2.1.** A Verified User, who is interested in buying the offered Goods accepts the terms of the advertisement (offer) directly, or for the purpose of further negotiations on the terms of the Purchase Contract, contacts the Verified User who posted the advertisement via the internal communication system of the Portal allowing the submission of counteroffers. A Verified User is entitled to withdraw his business counteroffer generated and sent through the Portal to the other Verified User interested in entering into the Purchase Contract before the time it is accepted by the other Verified User. Verified Users also specify the exact place of delivery of the Goods when executing the Purchase Contract.

- 4.2.2.** The conclusion of Purchase Contract occurs when the Verified User accepts the terms of the advertisement (offer) directly, or when the Verified User accepts a business counteroffer of the other Verified User containing the specification of the Goods, the purchase price, the amount of the advance, if negotiated, delivery date (start and end of the period for the implementation of the Purchase Contract), which was generated and sent through the Portal by the second Verified User interested in entering into the Purchase Contract and which was not withdrawn prior to acceptance in accordance with the Trade Terms and Conditions. By executing the Purchase Contract, the Seller undertakes to surrender to the Buyer the Goods defined in the Purchase Contract (in a quantity complying with the tolerance according to Article 4.2.6 therein under) at the agreed place and time of delivery and allows him/her to acquire ownership of the Goods and the Buyer undertakes that s/he shall take over and pay the Seller the purchase price of the Goods duly and timely delivered at the agreed place and time in accordance with the Trade Terms and Conditions, including the payment of part of the purchase price in the form of a deposit, if agreed. The rights and obligations of the Seller and the Buyer not governed by these Trade Terms and Conditions are governed by generally binding legal regulations, in particular Act No. 89/2012 Coll., The Civil Code.

- 4.2.3.** Verified Users note that for the purpose of Purchase Contracts, the use of the Contracting Parties' own terms and conditions is expressly excluded, unless otherwise specified in the Trade Terms and Conditions, as well as the possibility of offsetting mutual claims between the Contracting Parties.

- 4.2.4.** After the conclusion of the Purchase Contract, the Portal automatically sends to the e-mail addresses of the Contracting Parties

a confirmation of the Purchase Contract conclusion, including the Trade Terms and Conditions effective on the date of the Purchase Contract conclusion that form an integral part of the Purchase Contract. At the same time, the data regarding the electronically concluded Purchase Contract are stored by the Portal on the Contracting Parties' user accounts.

- 4.2.5.** If the content of the Purchase Contract or any other agreement of the Verified Users within the Portal implies that the Goods are to be delivered in several partial deliveries, the Contracting Parties shall use the Portal to agree, upon the Conclusion of the Purchase Contract, on a binding schedule of the individual deliveries of the Goods, specifying the delivery days of the individual parts of the Goods and the quantities of the Goods for these individual deliveries. Changes in the agreed schedule of the individual deliveries may only take place if the schedule for the individual deliveries of the Goods proposed by one Contracting Party within the Portal is accepted by the other Contracting Party using the "Change Confirmation" option on the Portal. If the change of the schedule for the individual deliveries of the Goods proposed within the Portal by one Contracting Party is not accepted by the other Contracting Party within the Portal, the proposed change in the schedule of the individual deliveries shall not take place and the Contracting Party which has proposed the change of the schedule for the individual deliveries of the Goods shall proceed according to the agreed schedule, confirmed by both Contracting Parties.
- 4.2.6.** Verified Users acknowledge that the Purchase Contract stipulates that the quantity of the Goods is always negotiated with the tolerance of minus 5% of the weight of the Goods. If the Goods are delivered to the Buyer by the Seller in a total quantity lower than agreed in the Purchase Contract but within this minus 5% tolerance, it is not considered to be a breach of the Purchase Contract. In the event that the Buyer pays the purchase price in advance to the Operator's bank account in a total amount corresponding to a larger quantity of the Goods than the total quantity of the Goods actually delivered, the Buyer shall be refunded the part of the purchase price corresponding to the quantity of the Goods undelivered within the tolerance allowed, or it shall be reduced by the due portion of the Remuneration for Mediation, in accordance with Article 3.1.2. of the Trade Terms and Conditions, as part of the final settlement of the purchase price and the Purchase Contract upon completion of its implementation. If the Seller delivers a larger quantity of the Goods than agreed in the Purchase Contract, it is the Seller's responsibility and the Buyer is not obliged to pay a higher purchase price.
- 4.2.7.** Neither the Seller, nor the Buyer is entitled to transfer the Purchase Contract or any part thereof to a third party without prior written consent of the other Contracting Party.

### **4.3. Purchase Price and Payment Terms**

- 4.3.1.** By their registration Verified Users expressly agree that the Operator is the provider of the payment place through which the purchase price and the advance payment, if agreed under the Purchase Contract, are paid. The bank account of the Operator is a bank account kept at Československá obchodní banka, a. s. (hereinafter referred to as ČSOB), under the name of "VÁZANÉ PROSTŘEDKY OPERACÍ GRAINTERMINAL" (COMMITTED FUNDS OF THE GRAINTERMINAL OPERATIONS), the owner and administrator of which is the Operator. Detailed information on the special regime of the escrow settlement deposit account, the Operator's insurance, and the Operator's bank account identification data are posted on the Portal.
- 4.3.2.** If an advance payment has been agreed on in the Purchase Contract, the Buyer is obligated to pay it to the Operator's bank account within fifteen (15) days from the date of the Purchase Contract conclusion, unless expressly agreed otherwise between the Contracting Parties within the Portal. In the event that the advance payment is not fully credited to the Operator's bank account in time, the Purchase Contract becomes void; however, the Operator's entitlement to the Remuneration for the mediation is not affected.
- 4.3.3.** The Purchase Price or its part corresponding to the deliveries in the upcoming working week after the purchase price for the given deliveries exceeds the amount of the advance payment paid by the Buyer, if any, must be credited to the Operator's account in the amount exceeding the advance payment paid, no later than on Friday at 15.00 Central European Time of the week preceding the scheduled deliveries. If the purchase price or any part thereof (after inclusion of any advance payment), paid by the Buyer, is not credited to the Operator's bank account in accordance with the provisions of the previous sentence, the Seller shall not be obliged to prepare the Goods to be delivered under the Purchase Contract. If the Buyer then fails to pay the purchase price or any part thereof, within three working days since the original deadline for crediting the purchase price or any part thereof to the Operator's bank account, the Seller's obligation to deliver the Goods in the quantity corresponding to the purchase price the payment of which the Buyer is in default will terminate and the Purchase Contract is cancelled in the scope of such non-performed delivery.
- 4.3.4.** In the event of the Buyer being in default with the payment of the purchase price, or a part thereof corresponding to the scheduled deliveries in the upcoming working week, the Buyer is obliged to pay the Seller a contractual penalty of 20% of the purchase price negotiated in the Purchase Contract, exclusive of VAT; The contractual penalty does not apply to the delay with the advance payment. The Buyer's obligation to pay a contractual penalty to the Seller is not incurred if the delay with the payment of the purchase

price has been caused by an extraordinary, unpredictable and insurmountable obstacle, regardless of the Buyer's will (so-called "force majeure"). However, the circumstances of the force majeure must be announced and demonstrated by the Buyer to the Seller without undue delay as soon as the Buyer becomes aware of them. In addition to the contractual penalty, the Buyer is still obliged to compensate the Seller for the damages incurred due to the purchase price or any part thereof being unpaid. If the Buyer has previously paid any advance payment on the purchase price, the Seller's claim for the payment of the contractual penalty under this Article may be offset against any Buyer's claim for return of the advance payment.

**4.3.5.** In the event of the Buyer being in default with the advance payment or the payment of the purchase price or any part thereof and in consequence of which the Purchase Contract is cancelled, the Operator is entitled to cancel the Buyer's registration on the Portal and to terminate the Contract.

#### **4.4. Payment or refund of the purchase price and deduction from the purchase price**

**4.4.1.** The Operator shall release to the Seller the Purchase Price paid by the Buyer or the proportion thereof (in case of partial deliveries of the Goods), whether paid in the form of an advance payment or not, possibly deducted by (i) the Seller's outstanding part of the Remuneration for Mediation, (ii) deductions agreed or determined for defective Goods, pursuant to the Trade Terms and Conditions, (iii) costs incurred to the Operator for the examination of the samples of the Goods in the Buyer's claim pursuant to the Trade Terms and Conditions and / or (iv) the due part of the fee for determining the amount of the deductions for defective Goods by the Operator, the payment of which the Seller is obliged to make. The Operator shall do so within three working days

4.4.1.1. after the Seller and the Buyer confirm to the Operator the handover and acceptance of the Goods under the Trade Terms and Conditions or, if the Buyer does not acknowledge the handing over and acceptance of the Goods in accordance with Article 4.5.5. of the Trade Terms and Conditions, upon receipt of a copy of the delivery note confirming the delivery of the Goods or specific partial deliveries of the Goods by the Seller and also after the Buyer's period for a possible claim expires, i. e. when the Goods are not reclaimed by the Buyer under the Trade Terms and Conditions, or

4.4.1.2. in the event of the Buyer's claim in accordance with the Trade Terms and Conditions, after the Seller agrees to the claim and the Contracting Parties agree on the amount of the deductions from the purchase price for the defective Goods (and after the notification to the Operator), or after the amount of the

deductions has been determined by the Operator in accordance with Article 4.6.8. of the Trade Terms and Conditions, or

4.4.1.3. in the case of the Buyer's claim, after the Operator notifies the Contracting Parties in accordance with the Trade Terms and Conditions about his/her conclusion of the eligibility of the Buyer's claim within the meaning of Article 4.6.6. of the Trade Terms and Conditions and the Parties agree on the amount of deductions from the purchase price for the defective Goods (and after the notification to the Operator), or after the amount of the deductions has been determined by the Operator in accordance with Article 4.6.8. of the Trade Terms and Conditions, or

4.4.1.4. in the case of the Buyer's claim, after the Operator notifies the Contracting Parties in accordance with the Trade Terms and Conditions about his conclusion of the ineligibility of the Buyer's claim within the meaning of Article 4.6.6. of the Trade Terms and Conditions.

**4.4.2.** If there is no handover and takeover of the Goods or any part thereof, in accordance with the Purchase Contract, the Operator shall refund the Purchase Price for the Goods or the proportion thereof paid by the Buyer, whether paid in the form of an advance payment or not, possibly reduced by the due part of the Remuneration for Mediation in accordance with Article 3.1.2. of the Trade Terms and Conditions, any other financial entitlements to the credit of the Operator against the Buyer, and / or a set contractual penalty in favour of the Seller, to the bank account from which the purchase price has been paid.

#### **4.5. Handover and Takeover of the Goods, Ownership Rights**

**4.5.1.** The terms of delivery of the Goods under the Purchase Contracts concluded through the Portal are governed by the FCA clause of INCOTERMS 2010, with the place of delivery being the exact destination of the Seller at his/her registered office or at another address specified by the Seller in the Purchase Contract. The Seller delivers the Goods (customs cleared for export) to the carrier determined by the Buyer at the agreed place. If the handover takes place in the Seller's facility, the Seller is responsible for loading. In such case, the delivery of the Goods is accomplished by loading the Goods into a means of transport provided by the Buyer or a person authorized by him/her to collect and transport the Goods. By loading the Goods on a means of transport provided by the Buyer or the authorized carrier, the ownership rights to the Goods pass to the Buyer.

**4.5.2.** Prior to loading the Goods according to the previous paragraph, the Seller is obliged to ensure weighing of the empty means of transport and then of the full means of transport by means of a certified measuring device which he stated during the registration on the Portal, in order to determine the weight of the delivered Goods. If the

Seller cannot ensure weighing of the Goods in accordance with this Article of the Trade Terms and Conditions, he is obliged to accept the weight of the Goods determined in this manner by the Buyer. If the Goods are not weighed on a certified measuring device even by the Buyer, the weight determined by the Seller when loading the Goods is decisive.

- 4.5.3.** After loading the Goods according to the preceding paragraphs, the Seller shall take three control samples from the Goods in the presence of the Buyer or the authorized carrier and place them in three (3) sample bags of the Operator marked with a barcode or a unique identifier (hereinafter also referred to as the "barcode"). The Seller shall, in the presence of the Buyer or the authorized carrier enclose (seal) the sample bags and clearly fill in the required data on their label, at least the date of loading of the Goods, the Seller's name, the Buyer's name, the authorized carrier's name, and identification data of the persons acting during the loading of the Goods on behalf of these entities. The Seller and the Buyer or the authorized carrier shall confirm the completed data by signing all three (3) bags with the samples of the Goods and the detachable coupons on each of the sample bags having the same barcodes as the individual sampling bags. The separable coupons shall also indicate the date of taking the sample of the Goods, i.e. the date of the handover of the Goods. The Seller shall keep two sample bags and s/he shall separate the barcode coupons from these two sample bags, handing these coupons to the Buyer or to the authorized carrier. From the Goods sample bag that is to be retained by the Buyer, a barcode coupon is also separated upon handover of the Goods and given to the Seller. The Seller is required to keep the two samples of the Goods with all remaining barcode coupons for the same delivery of the Goods for a period of one month from the handover of the Goods to the Buyer or the authorized carrier and to protect them from any unauthorized manipulation. The Seller is also obliged to handover the delivery note to the Buyer or the authorized carrier, confirming delivery of the Goods.
- 4.5.4.** If the Buyer orders delivery of the Goods to the place of delivery (the office or facility of the Seller) from the Operator, the Operator shall ensure the transport by a third party - the carrier designated by the Operator, for the fee determined by the Operator. The Verified Users acknowledge that in this case the Operator does not assume responsibility for the characteristics and quality of the Goods, which the Seller continues to bear in full. In such a case, the Operator is responsible only for ensuring transport from the place of delivery to the place of destination. The carrier secured by the Operator is regarded as the Buyer's carrier.
- 4.5.5.** The Seller is required to acknowledge the handover and acceptance of the Goods without undue delay by completing the delivery note data within his user account on the Portal with the relevant Purchase

Contract and the specific Goods delivery. If the data entered on the Seller's Portal correspond to the data in the delivery note delivered to the Buyer or authorized carrier; the Buyer is obliged to confirm the handover and acceptance of the Goods by confirming the details of the relevant Purchase Contract and the specific Goods delivery within his user account on the Portal. If the Buyer does not confirm the data entered by the Seller with the relevant Purchase Contract and the specific delivery of the Goods within 48 hours from the time of entering the data by the Seller, the Seller is obliged, upon the Operator's notice to send to the Operator a copy or copies of the delivery note confirming delivery of the Goods or specific deliveries of the Goods. The Operator is entitled not to provide the Seller the purchase price paid by the Buyer until the Seller duly fulfils all obligations under this Article 4.5.5. of the Trade Terms and Conditions.

- 4.5.6.** Upon confirmation of the handover and acceptance of the Goods by the Buyer or, if the Buyer does not acknowledge the handover and acceptance of the Goods in accordance with Article 4.5.5. hereinabove, on the basis of a copy / scan of the delivery note confirming the delivery of the Goods or specific partial deliveries of the Goods submitted to the Operator by the Seller, the Operator, on the basis of an authorization within the meaning of Article 2.2.4. of the Trade Terms and Conditions regarding issuing of tax documents in accordance with the provisions of § 28 par. 6 of Act No. 235/2004 Coll., on Value Added Tax, as amended, shall issue a tax document on behalf of the Seller and send it to the Buyer. The Users, in accordance with § 2 par. 5 of Government Decree No. 361/2014 Coll., on determining the delivery of goods or provision of services for the use of the reverse charge regime, as amended, the registration and the conclusion of the Purchase Contract, enter into a contract and agree to use the reverse charge regime even if the total purchase price under the Purchase Contract is less than or equal to 100,000 CZK, exclusive of VAT. Thus, the users have reason to believe that the taxable supply under the Purchase Contract is in any case subject to the reverse charge regime and will apply this regime to that purpose.
- 4.5.7.** If the Seller fails to deliver the Goods or its part corresponding to the individual delivery of the Goods to the Buyer at the agreed date, according to the Purchase Contract, the Seller is obliged to pay the Buyer a contractual penalty of 20% of the purchase price, exclusive of VAT. The obligation to pay a contractual penalty to the Seller is not incurred if his/her delay with the delivery of the Goods has been caused by an extraordinary, unpredictable and insurmountable obstacle; regardless the Seller's will (so-called "force majeure"). However, the circumstances of the force majeure must be announced and demonstrated by the Seller to the Buyer without undue delay after the Seller becomes aware of them. In addition to the contractual penalty, the Seller is still obliged to compensate the Buyer for the

damages incurred due to the failure to deliver the Goods or any part thereof.

#### **4.6. Quality and Defects of the Goods, Claims**

- 4.6.1.** The supplied Goods (i) must comply with the requirements for food and feed in accordance with applicable EU and Czech legislation, (ii) it must not contain live pests and covered and / or mouldy seeds, (iii) it must be physiologically mature, without odour and mould, and (iv) it must meet the general parameters of the commodity it represents and the quality indicators negotiated in the Purchase Contract.
- 4.6.2.** The Buyer is obliged to inspect the Goods and to check the quality of the Goods upon receipt of the Goods, but no later than without undue delay upon delivery to the place of destination by the authorized carrier. The quality of the delivered Goods shall be checked by the Buyer in his laboratory. The identification of individual quality attributes is carried out according to valid ČSN (Czech technical standards). The moisture, bulk density, N-substance content, fat content and other quality indicators under the Purchase Contract will be determined on instruments certified by a generally recognized metrology institute. If any changes in the quality indicators specified in the Purchase Contract result from an amendment to certain ČSN standards, setting more stringent limits than those set out in the Purchase Contract, the Buyer is entitled to notify the Seller of this change in quality indicators. However, such a change of the ČSN standards shall not affect the indicators and the quality grade of the Goods under the already concluded Purchase Contract.
- 4.6.3.** If the Seller does not ensure weighing of the delivered Goods by means of a certified weighing device, the weight of the delivered Goods shall be ensured by the Buyer, by weighing the means of transport loaded with the Goods and then weighing the empty means of transport by the means of a certified weighing device (scales) and if the Buyer indicates the determined weight of the Goods on the Portal at the respective Purchase Contract and specific delivery of the Goods, this weight of the Goods determined by the Buyer is decisive. The Seller is entitled to participate in the weighing process conducted by the Buyer. Otherwise, the weight determined by the Seller when loading the Goods applies.
- 4.6.4.** If the Goods are defective in the conflict of the Purchase Contract and / or these Trade Terms and Conditions, the Buyer shall notify the Seller and the Operator without undue delay, but no later than 48 hours after the Goods have been delivered to the Buyer by the carrier authorized by the Buyer. If the Buyer fails to notify the Seller and at the same time the Operator that the Goods are defective, the Goods shall be deemed to be non-defective. Upon expiry of the 48-hour time limit for claims, the Buyer loses the right to any claims arising out of any defects of the Goods.

- 4.6.5.** If the Seller does not agree with the Buyer's claim under Article 4.6.4. hereinabove, he shall notify the Operator and the Buyer via the Portal (by marking this option at the individual Purchase Contract) without undue delay, but no later than within 24 hours from the timely claim by the Buyer. If the Seller fails to notify the Operator and the Buyer about his disagreement with the Buyer's claim within the specified time, the Seller is deemed to agree with the Buyer's claim.
- 4.6.6.** If the Seller declares disagreement with the Buyer's claim, he is obliged to deliver to the Operator a sample of the Goods of which the packaging (sample bag) may not show any signs of disturbance or tampering. The Operator shall verify the sample identification by its barcode, i.e. the unique identifier indicated on the sample bag, which shall be confirmed by the Buyer according to the coupon separated from this sample bag. Within three (3) working days of receipt of the sample bag from the Seller, the Operator shall determine, based on the laboratory check performed by him/her, whether the Buyer's claim is justified. If the Buyer does not agree with the results of the laboratory check of the sample bag from the Seller, the Buyer may deliver to the Operator his sample of the Goods of which the packaging (sample bag) must not show any signs of disturbance or tampering, and the Operator, after verifying the identification of the sample of the Goods as hereinabove, in this case in cooperation with the Seller, determines whether the Buyer's claim is justified on the basis of another laboratory examination. If the sampling bag delivered to the Operator shows signs of disturbance or tampering, it will go to the detriment of the Contracting Party that has delivered the damaged sample bag. The Operator shall notify of this fact both Contracting Parties without any delay. The Verified Users expressly agree that they will follow the Operator's conclusion on the question of the legitimacy of the Buyer's claim, which will be final and binding on them.
- 4.6.7.** The costs associated with the examination of the Goods shall be paid to the Operator by the Verified User that has lost the dispute decided by the Operator's conclusion regarding the legitimacy of the Buyer's claim. The Operator is entitled to set off his receivable to cover the costs associated with the examination of the samples against the Seller's claim for payment of the purchase price and to deduct the costs to be borne by the Seller from the purchase price which the Operator is required to pay to the Seller according to the Trade Terms and Conditions.
- 4.6.8.** If the Seller agrees with the Buyer's claim or if the Operator concludes that the Buyer's claim is legitimate in the event that the Seller disagrees with the Buyer's claim, the purchase price shall be reduced by the deductions, the amount of which shall be determined by an agreement between the Contracting Parties and the Contracting Parties shall notify the Operator accordingly. If the Contracting Parties do not agree on the amount of the deductions

from the purchase price within [•] days from the expiration of the time limit for the Seller to express his disapproval with the Buyer's claim or the announcement of the Operator's conclusion regarding the Buyer's claim to the Contracting Parties, the amount of the deduction from the purchase price shall be finally determined by the Operator. Both the Buyer and the Seller will pay the Operator for this service (determining the amount of the deduction from the purchase price) a fee according to the Price List of Services published on the Portal, both Contracting Parties paying in equal proportion; of this obligation, the Parties are bound jointly and severally with the Operator. In accordance with Article 4.4.1. of the Trade Terms and Conditions the Seller shall be entitled only to a payment of the purchase price reduced by the deductions for the purposes of this article and, where applicable, less any additional financial entitlements of the Operator or the Buyer in accordance with the Trade Terms and Conditions.

## **5. PERSONAL DATA, PORTAL CONTENT**

### **5.1. Personal data and the consent to their processing**

**5.1.1.** Users and their representing personal entities are acknowledged that in connection with the operation of the Portal and the provision of related services, personal data of Users, who are personal entities or the personal data of the personal entities representing the Users on the Portal may be processed. Users and their representative personal entities also acknowledge that the provision of personal data to the Operator is voluntary. However, if a User or a personal entity representing him/her in the forms on the Portal does not provide personal information, the Operator is entitled at his/her sole discretion to restrict or disable the User's access to the Portal, not to authorize or terminate the User's registration, or to restrict his/her access to certain services.

**5.1.2.** Users and their representing personal entities give their consent to the Operator, as the administrator to process automatically, or manually, their personal data in the scope of the name, surname, date of birth, permanent address, company registration number, tax identification number, telephone and email contact details, bank account numbers, for the purposes of operating the Portal and providing related services for a period of time intended to process the personal data, but no longer than four years from the termination of the User's registration on the Portal.

**5.1.3.** Users, who are personal entities, or personal entities representing them on the Portal as data entities have the right (i) at any time to request the Operator as the administrator to provide information on the processing of personal data provided by them pursuant to provisions of § 12 of Act No. 101/2000 Coll., On the Protection of Personal Data, as amended, the Operator being entitled to provide information for an adequate reimbursement not exceeding the costs

necessary to provide the information; (ii) according to the provisions of § 21 of the same Act to request the Operator as the administrator to clarify or to eliminate the defective situation, if they find or believe that the processing of their personal data is performed in conflict with the protection of their private and personal life or in conflict with the law, particularly if personal data are inaccurate; In particular, may request the blocking, correction, completion or liquidation of their personal data; and (iii) at any time revoke the given consent to the processing of their personal data.

## **5.2. Content on the Portal Website**

**5.2.1.** When posting content on the Portal website Users are obligated to proceed in accordance with the legal regulations and hereof Trade Terms and Conditions. The Operator does not participate in the content uploaded to the Portal website by the Users (in particular advertisements, comments) and is not responsible for its content in greater extent than that provided by the relevant legal regulations. If the Operator has any suspicion that the content posted on the Portal website by the User is in conflict with the law or the Trade Terms and Conditions or if the User is otherwise in breach of the law or the Trade Terms and Conditions, the Operator is entitled to remove the defective content from the Portal website or to prevent access to such content to other Users, and/or to restrict User access to the Portal or certain services and/or to withdraw from the Contract with this User.

**5.2.2.** Users are obligated to report to the Operator any content on the Portal which is unlawful, misleading, untrue or otherwise defective.

**5.2.3.** Materials and information displayed or posted on the Portal (with the exception of information and materials uploaded by Users), inter alia, including all documents, files, graphics, devices, codes and general appearance and functions of the Portal, are the work and subject of the copyright of the Operator. All rights reserved unless specifically stated otherwise. Any unauthorized interference with the Portal or its unauthorized use or its individual components, may infringe copyright or related rights of third parties or the Operator. Any use of the author's work without the consent of the author or person empowered to grant the right to the use of the work, as well as unauthorized interference with the author's work, including unauthorized reproduction and/or storage in the memory and electronic media, are unlawful and punishable by civil or criminal law.

The Operator and possibly other personal and legal entities are the owners of registered trademarks, patents or other rights in the field of intangible property rights or other rights to intangible goods that are presented on the Portal. Their unauthorized use, interference with their text or graphics, or other unauthorized manipulation, including imitation, may lead to violation of legislation in the field of competition or unfair competition or in the area of intangible property rights. Any links to the websites of other legal or personal entities are

provided on the Portal only for practical reasons and do not establish responsibility for the information contained on other websites or the consent with their content from the Operator. The Operator makes no guarantees, either expressly or implied, with regard to the accuracy, availability, reliability or content of such information, texts, graphics and links. The Operator did not test the software of other sites and makes no resolution regarding the quality, safety or suitability of this software.

## **6. TERMINATION OF CONTRACT, ACCESS RESTRICTION**

### **6.1. Withdrawal from Contract and restriction of access**

**6.1.1.** The Operator is entitled to withdraw from the Contract, cancel the registration, possibly restrict or disable the User's access to certain services or the Portal if the User has substantially or repeatedly breached the Trade Terms and Conditions or generally binding legal regulations or through his/her actions damages the goodwill of the Operator, and furthermore also in a case where the Operator has a reasonable suspicion that the User intends to cause damage to third parties or does not act in an honest manner. The Operator is entitled to proceed according to the preceding sentence, in particular because of the fact that the User (i) stated false information at registration or did not notify the change of such data without undue delay, (ii) calls for trading outside the Portal, (iii) without reason worthy of special consideration does not deliver or accept Goods in accordance with the concluded Purchase Contract, (iv) sells Goods with characteristics that do not match the characteristics declared in the advertisement or required by the Trade Terms and Conditions, and/or (v) avoids the performance of obligations towards the Operator and/or any other User.

**6.1.2.** The User, in whose case the Operator withdrew from the Contract or terminated his/her registration is not entitled to re-register on the Portal without the express consent of the Operator.

### **6.2. Notice of Termination**

**6.2.1.** The User is entitled to terminate the Contract in writing, without providing a reason, with a seven (7) day notice period from the date of delivery of the written notice to the Operator. The submission of termination notice does not relieve the User of obligations already incurred towards other Users and/or the Operator.

### **6.3. Generally on the termination of Contract**

**6.3.1.** The termination of the Contract does not affect (i) the already incurred obligations to pay the Remuneration for Mediation or any other charges for Operator's services, contractual penalty and/or default interest, to compensate the Operator's expenses according to the Trade Terms and Conditions or to compensate the damage caused by the breach of obligations under the Trade Terms and

Conditions or the respective legal regulations, nor (ii) the provisions of the Contract and the Trade Terms and Conditions, which due to their nature, bind the User and the Operator even after the termination of the Contract.

## **7. CHANGE IN TRADE TERMS AND CONDITIONS**

### **7.1. Change in Trade Terms and Conditions**

- 7.1.1.** The Operator is entitled to at any time unilaterally change the content of the Trade Terms and Conditions, in particular due to changes in legal regulations, technological changes affecting the functioning of the Portal, or changes to services provided within the Portal. Any changes to the Trade Terms and Conditions become effective on the 14th day after they are published on the Portal.
- 7.1.2.** The Operator shall inform the User of changes to the Trade Terms and Conditions no later than fourteen (14) days prior to the effective date of the new version of the Trade Terms and Conditions by publishing them on the Portal. A notice of the change in the Trade Terms and Conditions will also be displayed when the User logs in to user account on the Portal.
- 7.1.3.** The User is entitled to refuse the change in the Trade Terms and Conditions and to terminate the Contract within fourteen (14) days from the date of receipt of the notice of changes to the Trade Terms and Conditions on the Portal, with a notice period of seven (7) days from the date the termination notice is delivered to the Operator. In the event that the User does not reject the change in the Trade Terms and Conditions, within a set period of time, the changes in the Trade Terms and Conditions are deemed to be approved by him/her. If the User does not terminate the Contract, although he/she rejects the change in the Trade Terms and Conditions, the Operator is entitled to terminate the Contract in writing with a notice period of seven (7) days from the date of delivery of the termination notice to the User.
- 7.1.4.** If the Operator or the User issue a termination notice of the Contract in accordance with the preceding paragraph, all legal relations with the User relative to the Portal shall, until the expiration of the notice period, be governed by the original text of the Trade Terms and Conditions. During the notice period, the User is not authorized to post new advertisements on the Portal, or to respond to other Users' advertisements; he/she is only entitled to take steps necessary to complete already commenced negotiations on the conclusion of Purchase Contract or to implement the Purchase Contract already concluded before the delivery of the termination of the Contract. If in such a case the Purchase Contract is entered into within the notice period or after its expiry, the rights and obligations of the Operator, including his/her right to the Remuneration for Mediation and the Users concerned in relation to this Purchase Contract, shall remain unaffected by the termination of the Contract and shall be governed

by the terms of the Contract and the Trade Terms and Conditions agreed by both Contracting Parties.

## **8. FINAL PROVISIONS**

### **8.1. Downtime and restrictions in Portal operations**

**8.1.1.** The Operator is entitled to temporarily restrict the operation of the Portal for the purpose of regular maintenance of the Portal or for other technical reasons, possibly shut down the Portal from operation (downtime) for a certain period. If possible, the Operator shall announce the time and approximate downtime on the Portal at least 2 hours in advance.

### **8.2. Governing Law**

**8.2.1.** Legal relationships between the Operator and Users and Users mutually, arising from or in connection with the Portal, the Contract or the Purchase Contract, and hereof Trade Terms and Conditions shall be governed by the law of the Czech Republic.

**8.2.2.** If any question is not explicitly defined in the Contract, the Purchase Contract and/or the Trade Terms and Conditions, it is governed by the relevant provisions of Act No. 89/2012 Coll., The Civil Code., or another relevant generally binding legal regulation.

### **8.3. Dispute resolution**

**8.3.1.** Any dispute arising between the Operator and the User in connection with the Portal and/or the Contract, which is not settled as a matter of priority amicably, shall be decided exclusively by the competent court of the Czech Republic in whose jurisdiction the Operator has a registered office.

**8.3.2.** Any dispute arising between the Contracting Parties in connection with the Purchase Contract, which is not settled as a matter of priority amicably, shall be decided by the competent court of the Czech Republic in accordance with applicable procedural laws.

### **8.4. Effectiveness of Trade Terms and Conditions**

**8.4.1.** The Trade Terms and Conditions become effective on 23.06.2017.

GrainTerminal s.r.o.