



McCaw Seeds Limited Terms and Conditions

Thank you for entrusting McCaw Seeds Limited to process and store your seed. We look forward to providing you excellent service and the best possible outcome for your crop.

The purpose of this document is to outline the services we provide and the obligations and responsibilities of each party during this transaction and shall be referred to as the Terms. These Terms apply to the supply of all services to you unless otherwise agreed in writing by us.

Definitions

'Agent' means any individual or Company that you have appointed to act on your behalf in relation to the Seed.

'Company' or 'Company's' or 'we' or 'us' or 'our' means McCaw Seeds Limited.

'Goods' means all goods supplied by the Company to you from time to time.

'Customer' or 'you' or 'your' means you as the owner of the Seed and includes an Agent if applicable.

'Dress', 'Dressing' or 'Dressed' means the process by which Seeds are passed through a seed cleaning / dressing machine to clean them of debris and unwanted matter.

'Field Dressed' means Seed from a combine harvester that is yet to be cleaned on a seed Dressing machine.

'Machine Dressed' means Seed that has passed through a seed cleaning / dressing machine.

Premises means 66 Racecourse Avenue, 87 Line Road, 530 Mt Hutt Station Road, 130 Mt Harding Road, and any other Premises that the Company uses to store Seed or to undertake the Services.

'Seed' includes the Field Dressed Seed and the Machine Dressed Seed owned by you or the Agent, as applicable in the context.

'Services' means the Seed Dressing / cleaning Services, storage and such other Services as we may agree to provide from time to time in relation to the Seed subject to these Terms of Trade.

'Terms' means the Terms of Trade as replaced or amended from time to time by the Company.

Delivery of Field Dressed Seed

Unless otherwise agreed, you are responsible for the cost of and arranging transport of the Field Dressed Seed to the Premises.

The intake of urgent Seed lines may be prioritised over those that will be Dressed later in the season.

Subject to capacity being available, we may agree to store your Field Dressed Seed at our Premises and such other premises as may be agreed from time to time. While we go out of our way to help facilitate your successful harvest, we cannot guarantee to take in and store your Field Dressed Seed at harvest time.

You warrant that Field Dressed Seed delivered to our Premises is true to type, in good condition, disease free, and all paperwork and records are accurate, complete and in-line with the merchant firm's expectations.

Delivery of Field Dressed Seed to any of our Premises as directed by us will constitute delivery to the Company. We will transfer this Field Dressed Seed to the Dressing facility as required at our expense.

Inwards testing

We undertake to test a sample of Field Dressed Seed at delivery for both Seed moisture and, in the case of ryegrass and other species from time to time, estimated Dressing loss. While every care is taken in providing this estimate, you acknowledge that the results are indicative only and we do not warrant that the Machine Dressed Seed will yield the same results.

You undertake to deliver Field Dressed Seed to us that is within the required moisture parameters as determined by the seed production contract terms or, if produced outside of a contract, to our reasonable requirements taking into account industry best practice.

The Company may, from time to time, facilitate the drying of Field Dressed Seed through its affiliated company McCaw Farming Limited at your cost.

You are liable for fumigation costs for any Seed found to contain live insects at the time of delivery to the Premises.

Where your Field Dressed Seed does not meet our reasonable requirements for Dressing or storage we will work with you to bring the Seed up to the required standard. This may involve additional costs to you. If suitable remedial work cannot be agreed or achieved we retain the right to reject the Seed. In this case we will advise you and you agree to arrange for the Seed to be collected from the Premises at your expense and without delay. Our tests will be conclusive evidence of the condition of the Seed as at the date of the test in the event of any disagreement or dispute arising in this regard.

Processing and Pricing

You acknowledge that the Company has no control over the quality or condition of the Field Dressed Seed delivered for Dressing. The Company makes no warranty or in no way will be liable as to the quality or condition of the Machine Dressed Seed to the extent that the same is affected by the quality and/or condition of the Field Dressed Seed delivered by you.

Seed lines that require scalping due to heating issues, inability to process through a fine cleaner (eg long straws that would block bins and elevators) or contamination levels greater than 25% will be charged a scalping fee.

Notwithstanding the exceptions below, Dressing charges will be levied per kilogram of **Machine Dressed** (MD) Seed.

For spinach, beet, browntop and any other Seed lot for which the Machine Dressing loss exceeds 50%, Dressing charges may be levied per kilogram of **Field Dressed** (FD).

Any line charged on an FD basis will not incur a scalping fee.

Except as otherwise specified, prices for the Services will be at our standard rates applying at the time or as otherwise advised in writing.

Re-Dressing

If a Machine Dressed line of Seed fails to meet quality standards that we deem should have reasonably been achieved, we will re-Dress at our expense. If the line was particularly difficult and all care and due procedure was insufficient to achieve the desired result in one pass (in our sole opinion, acting reasonably), the Customer will be charged for the re-Dress at a 50% discounted rate.

Storage

Machine Dressed Seed storage will be charged three months after Dressing.

While all reasonable care will be taken, storage will at all times be at your risk.

Machine Dressed Seed may be stored at any one of our Premises. Movement of Seed between Premises will be at the Company's expense.

Please note that Seed harvested in hot weather at the maximum allowable moisture and put straight into a bulk silo without being fan cooled can stay warm for weeks and become infested with insects and or mould. It is your responsibility to take all necessary actions to prevent this happening.

For any Seed to be stored at our Premises, the Customer must ensure that the Seed:

- (a) meets our requirements for storage, including temperature and moisture;
- (b) has been weighed and all weigh records and delivery documentation are provided to us prior to or at the time of delivery; and
- (c) is placed into the correct silo as directed by the Company prior to delivery.

Health and Safety

A copy of our health and safety policy is available on our website. You warrant that you are aware of the obligation imposed on you by the Health and Safety at Work Act 2015 during any entry onto the premises. You will ensure that you and your agents, employees and contractors comply with all obligations imposed under that Act and our health and safety policies and reasonable directions. You indemnify us against any financial liability incurred by us under the Health and Safety at Work Act 2015 as a result of a breach of this clause by you or your agents, employees and contractors when entering the premises.

Seed drying

We have access to Seed drying facilities through our partner company McCaw Farming Limited which may from time to time be used to dry Seed at the Customer's cost. The availability of drying space is not guaranteed and will reflect the demand in any given season.

Delivery to McCaw Farming Limited's dryer does not constitute delivery to the Company. Seed must be uplifted immediately post-drying. Please note, we cannot guarantee immediate intake space for Seed Dressing post drying.

McCaw Farming Limited will charge for drying Seed at its standard rates, or as otherwise advised in writing.

Insurance

From January 2025 McCaw Seeds will no longer provide "Customer Stock" insurance for Seed within our care. However, for any Seed remaining on our Premises on the 1st of January 2025 for which an insurance premium has been paid by you on the previous season's Dressing invoice, we will continue to hold "Customer Stock" insurance cover until such time as the Seed leaves our Premises. We will continue to hold liability insurance.

You warrant that you have adequate insurance cover for the Seed at the date that the Seed is delivered to the Premises and throughout the term that it is held at the Premises for all risks that the Seed may be exposed to during storage and that you have advised your insurer of these Terms. The insurance Certificate of Currency is to be supplied to us upon demand.

Contract

By requesting (whether directly or via an agent) that we supply Goods or Services, you acknowledge and agree (or are deemed to acknowledge and agree) that you have assented or agreed to these Terms.

The Company may, at its discretion and without any liability to you, by written notice to you, suspend or discontinue the Services (or any of them) at any time if any of the following should occur:

- a) you fail to comply with any of the provision of these Terms (or any other agreement with the Company); or
- b) we consider that your creditworthiness, or ability or willingness to comply with your obligations under these Terms may be at risk for any reason whatsoever.

Where the Company exercises its discretion to suspend or discontinue Services under these Terms, all charges shall become immediately due and payable by the customer.

Payment Terms

Unless we specify otherwise, payments for Goods and Services, plus GST, must be made by the 20th day of the month following the date of the invoice.

All amounts payable by you to the Company are to be paid in full and in cleared funds without any set-off, deduction or counterclaim.

Failure to pay in accordance with these Terms will result in penalty interest being charged on all outstanding amounts, until payment in full (including interest accrued) has been received. Interest will be calculated daily at a rate 5% per annum above the overdraft rate charged by the Company's bankers at the time.

All costs we incur in recovering overdue monies (including court, solicitor and debt collection costs) are payable by you.

The Customer's warranties

You warrant that all information provided to us is true and correct in all aspects.

You indemnify the Company against any loss or liability that may be suffered or incurred by us arising either directly or indirectly from:

- (a) any breach of these Terms by you; or
- (b) us acting in accordance with your instructions (including instructions of your Agent) or any applicable laws, except to the extent caused by our negligence.

The Company's warranties and limitation of liability

We warrant that the Services will be carried out in accordance with good industry practice, and we will take reasonable care of your Seed while at the Premises (including following good industry practice in relation to control of pests and/or vermin). Otherwise, all warranties and representations, including those expressed or implied by law, in respect of obligations of the Company under this Agreement are excluded to the extent permitted by law.

Without limiting the above, we will not be liable:

- (a) for any disease or infections affecting the Seed which arise or become apparent whilst the Seed is on our Premises;
- (b) for any delay in the delivery of Goods or Services;
- (c) for deterioration of endophyte infection in Seed stored on the Premises;
- (d) with respect to Goods, where you have altered or modified the Goods or failed to comply with our instructions or guidelines, or with standard industry practice;
- (e) for any loss caused by factors beyond our reasonable control, including acts of God; and/or
- (f) for any loss of profit, loss of income or revenue, loss of opportunity or any other loss of a similar nature; and/or
- (g) indirect or consequential loss of any kind.

If the Company is found to be liable notwithstanding any limitation or exclusion in these Terms, subject to any mandatorily applicable law to the contrary, the liability of the Company, howsoever arising, shall never exceed the lesser of:

- (a) The value of the Seed or Goods concerned (as applicable); and
- (b) The value of any insurance payment actually received by the Company in respect of the Seed or Goods concerned.

You must notify us within 21 days of delivery or collection of the Seed or Goods of any complaint you may have in respect of the Goods or Services. We will not be liable for any defective or damaged Goods or Services unless notification is given within this time period.

Without limiting any other provisions of these Terms, you acknowledge and agree that the description under which the Goods are sold represents what we reasonably believe the Goods to be and does not constitute a guarantee or warranty that any crop resulting from the Goods will grow true to description. We give no warranties in respect of the description, growth, quality, palatability, toxicity or purity of the Goods and will not be responsible for any unexpected or adverse results.

Force Majeure

We are not liable to you for any delay in delivery or default in performance of any of our obligations directly or indirectly caused by an event beyond our reasonable control (“force majeure”) that affects the provision of the Services. If a force majeure event occurs, we may, at our discretion, either cancel, suspend, or delay delivery of the Services (in whole or in part). You will have no claims against us as a consequence of such cancellation, suspension, or postponement.

General

You agree that any information you provide us with may be used for purposes connected with our business. Whether or not to provide such information is your own choice, but if you choose not to provide the information we request, we may be unable to provide the Goods or Services to you. You can request access to and correction of personal information.

You and the Company each agree that the Goods and Services are supplied in trade and therefore the Consumer Guarantees Act 1993 does not apply.

In the event of any dispute arising between the parties, the parties shall attempt to resolve the matter by negotiation or mediation. The parties agree to use their best endeavours to achieve resolution by the adoption of such informal dispute resolution techniques. In the event that agreement is not reached, disputes with a value of less than \$30,000 may be referred to the Disputes Tribunal. Otherwise, disputes shall be referred to arbitration in accordance with the Arbitration Act 1996 and amendments thereto. The arbitrator shall be mutually agreed to by the parties or if not agreed by them, then the arbitrator shall be appointed by the president of the Canterbury Westland branch of the New Zealand Law Society.

Thank you

The McCaw Seeds team would like to thank you for your continued support.

We look forward to working with you and wish you a bountiful harvest.



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