



Scheme Agreement

including use of QS certification mark and sanction procedures

referring to the bilateral agreement between QS
and Ovocom v.z.w. Bemefa v.z.w.

Dated: 27.03.2015

Stage: Feed sector

QS-ID: 4953113132361

QS Qualität und Sicherheit GmbH, Schedestraße 1-3, 53113 Bonn, legally represented by
the Managing Director Dr. Hermann-Josef Nienhoff,

- referred to in the following as scheme owner -

and **Transagro Bouton bvba**, Kleine Branderstraat 4A, 8908 Vlamertinge, BELGIEN,

- referred to in the following as scheme participant -

herewith enter into the following scheme agreement:

In participating in the QS. *Quality Scheme for Food*, all sectors engaged in the production process acknowledge the necessity of quality assurance for food that incorporates all the stages involved.

QS is scheme owner and vehicle of the QS. *Quality Scheme for Food*, referred to hereinafter in brief as "QS scheme" that covers all stages of the supply chain. The standards defined by the scheme owner set forth stringent, verifiable production and marketing criteria for all stages of the supply chain – from the feed sector to the food retail sector. The QS scheme is distinctive for its cross stage control of these criteria and the traceability of the agricultural products and the food manufactured from them. In the food retail goods produced in accordance with the requirements of the QS scheme by QS certified companies bear the QS certification mark.

In order to facilitate product flows between different quality assurance schemes, QS has realized several bilateral agreements with other scheme owners. Based on these agreements it is possible to become QS scheme participant referring to an audit that has been recognized as equivalent by QS.

The scheme participant has been audited within a quality assurance scheme whose audits have been recognized as equivalent by QS. After having informed himself extensively about the QS scheme the scheme participant is willing to participate in the QS scheme on this basis.

This having been established, the scheme owner and the scheme participant agree as follows:

§ 1 Subject of Agreement

The present agreement governs participation of the scheme participant in the QS scheme, the sanctions imposed for violations and the use of the QS certification mark by the scheme participant.

Basically the scheme manual the scheme participant is audited against applies. Regardless of this the requirements for participation in the QS scheme are set down in the respectively valid version of the QS scheme manual, which also includes the style guide for the QS certification mark.

The QS scheme manual in its respectively valid version is available under www.q-s.de.



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§ 2 Rights and Duties

The scheme owner and the scheme participant are bound under the present agreement to the following rights and duties.

1. The scheme owner

- a) refers explicitly to the requirements stipulated within the bilateral agreement signed with the other scheme owner.

This bilateral agreement in connection with the relevant scheme manual opens up the possibility and constitutes the requirements for participating in the QS scheme.

- b) will make available any information to the scheme participant that are necessary in order to make correct use of the relevant bilateral agreement mentioned above.

The scheme owner is entitled

- aa) to modify the conditions that are agreed upon between the other scheme and QS, if this is necessary for handling the QS scheme and if the scheme participant can be reasonably expected to accommodate said modification.

- bb) to alter the scale of fees, particularly to adjust them to general price trends.

The scheme owner will notify the scheme participant in written form of the amendment.

- c) operates a central database which will be available to the scheme participant for the in-scheme data exchange that is necessary for the scheme participants particular stage.
- d) supplies the scheme participant with an overview of the partners participating in the QS scheme, giving due consideration to data protection.
- e) supports the scheme participant by supplying information and training material that, where requested, may be made available for a share in the costs.

- f) is only liable itself and for vicarious agents for wilful intent and gross negligence.

2. The scheme participant

- a) undertakes to satisfy its duties defined therein of providing information to the scheme owner.

Said duties apply to all corporate locations registered by the scheme participant and admitted to the QS scheme. Under its own name, the scheme participant may only register legally dependent corporate locations for the QS scheme.

The scheme participant is obliged to register all relevant master data in the QS software platform and to keep these master data up to date. In the case of coordinated companies this task has to be done by agricultural coordinators or persons mandated for this purpose. The following information have to be provided:

- companies address,
- legal representative, contact person and substitute,
- phone and fax number,
- email address,
- information about crisis management (responsible person).

The scheme participant guarantees to the scheme owner that the corporate locations it has registered for the QS scheme and which have been admitted will fulfil the duties derived from the present agreement and the scheme manual it has been audited against.

- b) accords the owner of the scheme it is audited against free access to corporate grounds during normal business hours, to operational premises, to employees and to all records and registers by way of which compliance with and application of the criteria of the relevant scheme manual can be verified. Such controls can basically be accompanied by a person mandated by the scheme owner.

The scheme participant undertakes to provide scheme-specific information immediately. This requirement applies as



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well if the scheme owner requests the other scheme owner to initiate such investigations.

Beside this the scheme participant will inform the scheme owner directly about any issues that can influence its participation and approval within the QS scheme.

- c) will immediately inform the scheme owner as well as the responsible authorities (insofar as there is a legal duty to do so) of any scheme-related critical events and public recalls.

Critical events are scheme-related incidents that represent a danger to humans, animals, the environment, assets or the QS scheme as a whole or could become a danger to them. In particular, these include

- aa) all scheme-related deviations determined in goods purchasing, production or marketing, if these deviations are capable of endangering the food safety.
 - bb) all preliminary criminal or supervisory proceedings, if these proceedings are directly or indirectly geared toward ensuring food safety or the implementation of the applicable animal protection regulations.
 - cc) media research, critical media reports, and public protests directly or indirectly regarding food safety or animal protection.
- d) declares its agreement with the scheme owner publishing the name, address, location number, QS identification number (QS ID), the particular stage in the production and marketing process of the scheme participant as well as the names, addresses, location numbers and QS identification numbers of all corporate locations admitted to the QS scheme on the homepage and/or on the QS software platform of the scheme owner.

At all times the scheme owner is entitled to remove from its homepage any scheme participant or corporate locations that have temporarily or permanently been precluded from marketing.

- e) declares its agreement with the scheme owner electronically saving and processing all of the scheme participant's data necessary for running the QS scheme.
- f) will give immediate notification of all amendments that affect the contractual status with the scheme owner, its own availability or the assessment of the fees for scheme participation by entering them in the central data base of the scheme owner or, where there is no provision for such log-in, will duly inform the scheme owner in writing.
- g) undertakes, for purposes of company identification, to use an ILN number (international location number) or – at the discretion of the scheme owner – a comparable identification number and will notify the scheme owner of said number.

§ 3 Use of the QS certification mark

1. The scheme participant is entitled to make product-specific use of the QS certification mark within the reach of the bilateral agreement between QS and the correspondent other scheme owner limited to those products, which it has produced and/or marketed according to the relevant scope.

Scheme participants entitled to use the QS certification mark may

- a) make appropriate use of the QS certification mark for its own advertising purposes and for the products it produced and/or marketed, although the QS certification mark may only be related to those products with which the scheme participant engages in the QS scheme.

The right to use the QS certification mark is revocable, non-transferable and is not exclusively accorded.

- b) also use the QS certification mark for labelling its operating site, although – if participation in the scheme does not apply to the plant as a whole, if the plant is also party to other quality assurance schemes and/or because of this fact, the QS certification mark may not feature on all products – said use must be absolutely



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unmistakable and clearly to the exclusion of any confusion as to what exactly the QS certification mark relates.

- c) Scheme participants in the feed sector may label only products with the QS certification mark, not activities. The production scopes "Transport" (QS code 78 + 79) and "Storage and Transhipment" (QS code 77) are not allowed to use the QS certification mark for their activities.
- d) Scheme participants in the feed sector ensure clear identification of feed sold to other QS scheme participants. For bulk goods originating from the QS scheme this means product-specific labelling on the delivery note, for bagged goods, each bag has to be labelled accordingly.

Feedingstuffs can only be designated as QS products if they are covered by the bilateral agreement between QS and the other standard owner and fall within the current QS scope in the feed sector (i.e. feed materials included in Positive List or Feed Safety Database, additives and premixes as well as compound feed for cattle, pig, broiler and laying hen production.)

2. The scheme participant undertakes only to use the QS certification mark subject to the style guide for the QS certification mark given in the QS scheme manual and attached to this agreement. In using the QS certification mark, the scheme participant will avert any possibility of mistaken identity.

The scheme owner is entitled to alter the style guide for the QS certification mark as it sees fit. The scheme owner will give immediate notification to the scheme participant of any alteration, preferably prior to the amendment being carried out.

3. The scheme owner is entitled to call for evidence of the nature and manner in which the QS certification mark is actually used.

Should the scheme participant violate the present scheme agreement and the rules thereof governing the use of the QS certification mark, in particular, should it

make unauthorized use of the QS certification mark, tarnish it in any way, violate the style guide for the QS certification mark or use the QS certification mark in a manner that is anticompetitive, the scheme owner will be able to prohibit the scheme participant from using the QS certification mark as with immediate effect, retaining the right to take further measures.

§ 4 Sanctions

1. The scheme participant is subjected exclusively to the sanction conditions stipulated within the relevant scheme it is audited against.
2. The scheme participant commits itself to inform the scheme owner immediately if a sanction is imposed against him.

§ 5 Fees/List of Services

1. The scheme owner will charge the scheme participant a fee as set down in the attached scale of fees if the mentioned bilateral agreement does not provide any other stipulation concerning fees. The fee is charged in return for the services defined in § 2 (1). The scheme participant undertakes to pay the scheme owner the current fees on time as specified in the scale of fees.
2. The scheme participant undertakes to abide by the truth in supplying the scheme owner with information for purposes of fee assessment, where the fees relate to turnover or other operational aspects. The scheme owner is entitled to see suitable documents or to have them inspected by a person selected by the scheme owner who is bound to professional secrecy, for the purpose of verifying the information provided. Should such inspection result in a difference in excess of 10 percent to the figures notified, the scheme participant will bear the costs of said inspection; otherwise these costs will be borne by the scheme owner.



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§ 6 Coordinators

In addition, the following applies to coordinators:

1. Companies and branches may be incorporated into the QS scheme subject to the QS scheme manual by means of a coordinator. Coordinators become scheme participants. They undertake to assert the duties set down in the present scheme agreement in respect of their associated companies or branches.
2. Coordinators will ensure that the scheme owner is able to access the data of the companies and branches incorporated in the QS scheme at any time in its central database.

The coordinator will enter said data over an interface or the appropriate internet access into the database of the scheme owner.

Solely the coordinator will be liable for any costs and damages incurred with the companies or branches of the coordinator or with the scheme owner from a delay or error in providing this data.

§ 7 Term and Termination of Agreement

1. The agreement will take effect immediately upon being signed. It has a fixed term of one year.
2. The agreement will renew automatically by one year, unless one of the parties serves three months' notice to the end of its respective term to terminate it. Notice will be served by registered mail.
3. Should duties set down in the agreement be significantly amended by the scheme owner subject to § 2 (1) a), the scheme participant will be entitled to file objection to the amendment within a period of two weeks of receiving the notification of change.

Should the scheme participant lodge its objection, the scheme owner will be entitled to terminate the scheme agreement without notice for good cause.

4. This agreement is basically linked to the bilateral agreement the scheme owner has signed with the other scheme owner. In the case that the underlying agreement between the scheme owner and the relevant other scheme owner is cancelled the validity of this agreement expires simultaneously.
5. The scheme participant commits itself to inform the scheme owner immediately if a change to another certification system is performed for at least one location. If the scheme participant changes for at least one location to a certification against the QS scheme, a new QS scheme agreement has to be signed.
6. The right to serve exceptional notice of termination for good cause will be unaffected hereby. A good cause specifically prevails if
 - a) one of the parties violates a provision of the present agreement and despite a cease-and-desist letter fails to cease said violation.
 - b) a judgement in the first instance has been pronounced on the scheme participant or its legal representative for the violation, under penalty of the law, of regulations governing food products or other regulations that are of significance for implementing the present agreement or for the reputation of the QS scheme.
 - c) the scheme participant suffers financial losses, in particular insolvency proceedings are opened on its assets or not opened for lack of assets.
 - d) if a legal successor takes over one of the two parties, whether by inheritance or takeover of assets or for other reasons.

§ 8 Choice of Law, Place of Performance and Jurisdiction

1. The present agreement is subject to German law.
2. Place of performance and jurisdiction for all disputes derived from the present



QS. Ihr Prüfsystem für Lebensmittel.

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agreement is the registered seat of the scheme owner, where this is permitted by statute.

§ 9 Ancillary Provisions

1. In case the scheme participant's locations have been audited against different other standards recognized as equivalent by QS, this agreement has to be applied for each location in connection with each relevant agreement.
2. The scheme participant confirms it has received one copy of the present agreement together with the annexes to said agreement. The scheme participant recognises said annexes as effective, integral parts of the agreement.
3. No verbal agreements relating to the present agreement have been reached. Amendments and additions will require the written form to be operative, unless

otherwise stipulated by the agreement. The parties may only waive the requirement of the written form likewise by written agreement.

4. Should any provisions of the present agreement prove to be ineffective, the validity of the other provisions of the agreement will not be affected hereby. In such a case, the agreement will be so revised as to achieve the business purpose originally intended by the invalid provision. The same applies if, in implementing the present agreement, an omission transpires which requires remedy.
5. The present scheme agreement replaces any previous scheme-, sanction- and label use agreement. In spite of that, the contract date of the first scheme agreement/system agreement remains applicable for the assessments of term and termination as well as the fees for scheme participation.

Bonn, 07. APR. 2015
 Place, Date
 QS Qualität und Sicherheit GmbH
 Schedestraße 1-3 - 53113 Bonn
 Postfach 190172 - 53037 Bonn

QS Qualität und Sicherheit GmbH,
(signature, stamp)

Annexes to Scheme Agreement

- Extract from QS scale of fees for scheme participants
- Form for company master data
- Style guide for the QS certification mark

Vlamertinge-Teper (B), 2/4/2015
 Place, Date

scheme participant
(signature, stamp)

 **bouton**
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