

## General Sale and Delivery Conditions for Oil, Fats, Fatty Acids, Lecithin, Biodiesel and Glycerin and Similar

(Version of May 2016)

### I. General

1. The following sale and delivery conditions shall apply exclusively for all of the seller's contracts with another company concerning oils, fats, fatty acids, lecithin, biodiesel and glycerin and similar substances, including future business contracts. Any conflicting or additional conditions of the buyer or acquisition agent, which are not expressly accepted by the seller in writing do not apply and do not obligate the seller, even if the seller has not expressly rejected the conditions. By signing the sale confirmation, the buyer accepts the beforementioned and following conditions.
2. The contract details are agreed in the written sale confirmation of the seller, including the aforementioned and following conditions. Oral side agreements, alterations and supplements to the contract require the written confirmation of the seller.
3. The agreement regarding the beforementioned and following conditions remains effective even if the buyer does not send back the countersigned sale conditions.

### II. Delivery

1. Delivery will be made within the agreed delivery period at a time chosen by the seller. If the delivery time spans several months, the delivery will be made monthly in approximately equal instalments.
2. When determining the delivery time, "immediately" shall mean within 3 working days, or 5 working days in the case of ship consignments. "Prompt" shall mean within 10 working days. The date of conclusion of the contract is not included in this period.  
Working days, in the meaning of this and the following conditions, are the days from Monday to Friday. Legal or local holidays and the 24th and 31st of December are not counted as working days. For identifying the customary local holidays, the local holidays normally applicable in the area of the delivery and dispatch site are decisive.
3.
  - a) The seller can tender the goods at any time he chooses within the delivery period, unless otherwise specified in the contract. The seller can also tender the goods before the delivery time, however, only for a delivery on or after the 1st day of the delivery period. The buyer shall issue an executable shipment order for the acceptance of the goods immediately after receiving the tender. Should the buyer fail to fulfill this obligation within a grace period defined by the seller in accordance with no. 3 d), due to the material importance of issuing the shipment order in time, the seller is entitled to rescind from the contract or the unfulfilled contract section and/or to claim damages in lieu of the performance. In lieu thereof, the seller can also request immediate payment against the provision of a delivery certificate/storage certificate. The seller must exercise his right to choose a course of action no later than 2 working days after the end of the grace period, after which he can only claim compensation for damages in lieu of performance.
  - b) For deliveries on demand, the seller must issue an executable shipment order at least 5 working days before the desired delivery date.
  - c) If a tender of the goods made by the seller or a shipment order issued by the buyer is received by the respective other party later than 3:00 p.m. on a working day, then, for the purpose of calculating any deadlines, the tender or, respectively, the shipment order shall be deemed as being received not until the following working day by 10:00 a.m.
  - d) The grace period to be defined in accordance with no. 3 a) shall be reasonable and shall amount to at least 4 working days following the date on which the grace period notification is received. The grace period may be combined by the seller with the notice of tender.
  - e) If the seller has not made use of his right to tender in accordance with No. 1 and 3 a) and if in transactions on call the buyer has not provided a requested shipping order by the end of the delivery period, the seller can tender the goods as described in no. 3 a) even after the delivery period has expired, as long as the obligation of the buyer to accept the goods has not expired.
  - f) Should the seller claim for damages in lieu of the performance, he is entitled to establish the damage through a self-help sale or price ascertainment. The self-help sale shall be effected by a sworn broker without undue delay after the end of the grace period. Should a threatened self-help sale not be carried out or not be carried out in the statutory way, the right to claim damages remains unaffected. If the fixation of the amounts of damages is made by means of price ascertainment, the effective date for the price ascertainment shall be the 1st working day after the grace period has expired.
  - g) If the buyer does not issue an executable shipment order in time, the seller is also entitled to store the goods himself or through a third party at the cost and risk of the buyer. The buyer is responsible for arranging insurance.
  - h) In the event of delayed issue of the executable shipment order or a delayed delivery call, the seller is entitled to postpone the delivery by the same number of working days as the buyer was in arrears, in addition to a reasonable disposition time.
4. Unless otherwise specified in the contract, the seller is entitled to make partial deliveries. Every partial delivery is a partial fulfillment of the contract.
5. The deliveries to third parties (including controllers, carriers, shipping companies etc.) on agreed contracts will only be made, if the request is accompanied by the mandatory release certificates issued to the seller. In terms of quantity, request and release certificates need to match exactly. The request has to contain the contract number of the respective contract. If the contract number is missing in the case of a request or release of an intermediary seller, the seller is not obliged to effect the delivery.
6. The delivery can also be made from a different location than the one specified in the contract if this is appropriate for production, storage or distribution reasons. Any additional costs which result from this have to be borne by the seller. Any resulting reduced costs will be to the benefit of the seller.
7. The seller is entitled to refuse fulfillment of the contract,
  - a) if the financial circumstances of the buyer significantly worsen after the conclusion of the contract or if the seller becomes aware that the performance of the counter-claim is endangered, unless payment is made in advance or the payment is guaranteed in another way to the seller (e.g. bank guarantee);
  - b) for as long as the buyer is in default with the acceptance of delivery or with payment under any contract entered into with the seller;
  - c) if the company of the buyer is liquidated after the conclusion of the contract, is transferred to a third party, is moved abroad or is given another legal form and, due to these reasons, the fulfillment of the contract is in reasonable doubt, unless payment is made in advance or guaranteed in accordance with lit. a).
8. The seller is entitled to deliver goods of an equal value of their brand at any time, unless otherwise agreed in the contract.
9. a) The seller is released from the contractual delivery deadlines and, if appropriate, from the fulfillment of the contract in accordance with the following provisions insofar and as long as circumstances occur domestically or abroad which make the fulfillment of the contract significantly difficult. This is the case, if the seller is unable to acquire raw materials or if the seller is prevented from processing, delivering or loading of goods, or if these are unreasonably difficult.  
The parties in particular consider the following circumstances to create unreasonable difficulties:
  - Mobilization, warlike events, uproar, civil war, blockades, labor disputes, demonstrations, stay-in strikes, sabotage and go-slows;
  - adverse natural events such as ice, high/low water, hurricanes, cyclones, earthquakes, flood waves, late or destroyed harvests;
  - significant difficulty in obtaining foreign currency in order to pay for raw materials;
  - hindrance, delays, limitations or discontinuation of loading or transportation;

- hindrance resulting from explosions, fire, complete or partial destruction of manufacturing or storage facilities, machines and parts of machines;
- machine breakdowns or other significant operational disruptions;
- consequences of an "energy crisis", fuel, additives or energy shortages;
- lack of staff due to illness or epidemics;
- no delivery or incorrect delivery of raw materials, additives or packaging materials to the seller;
- foreign and domestic mandatory orders, in particular official decrees and similar measures;

Hindering circumstances in the aforementioned sense do not include those which have occurred under default of the seller, his legal representatives or employees.

- b) In those cases listed in no. 9 a), the seller is entitled to initially extend the agreed delivery period by the expected duration of the hindrance, or a part of it. The buyer shall be notified of this without undue delay, either verbally, by telephone or in writing. In the first instance, this message can be passed on in any form. In the case of a verbal notification or message passed on by telephone, the seller is obliged to send a written or telex or email confirmation as soon as it is reasonable to do so under the circumstances.

It is the right of the seller, however, to deliver goods of an equal value of their brand, no later than the end of the hindrance.

Once the hindrance has ended, the seller shall deliver the goods as soon as possible having regard to its means of production and other options within a reasonable time period, and shall report the corresponding delivery date to the buyer as soon as possible.

- c) The seller is not required to replace the affected deliveries with supplies from third-party sources, unless the buyer will cover the resulting additional costs and agrees to the resulting delivery delay.

- d) If the total duration of the hindrance is more than three months, either of the parties is entitled to rescind from or terminate the contract. The right of rescission or termination does not exist, if the seller is still required to accept raw materials or parts thereof after three months, due to his raw materials purchase contracts, and if it is reasonable for the buyer to continue adhering to the contract.

In the case of contracts which include several deliveries, the aforementioned right of rescission exists only for those deliveries which were to be made during the period of time in which the hindrance existed.

10. A sales contract will automatically expire with regards to undelivered quantities, if a written, email or telegraphic notice to accept these units of trading is not issued within three months after the last delivery time defined in the contract.

If such a notice is issued and the party issuing the notice fails to exercise his rights until month end, calculated from the date on which the notice was effected in accordance with clause 1, the sales contract is to be regarded as irrevocably expired with no right to claim compensation for damages for either party with regards to the undelivered quantities. The provisions in sections 9. a) - d) remain unaffected.

### III. Shipment

1. Weighing and sample-taking procedures applicable to the quantity and quality are to be executed at loading. The buyer has the right to be present during these procedures or to be represented by an inspector. He can also request that the sample taken or the drawing up of a weight certificate be carried out by a qualified third party at its cost. Should the buyer/inspector not arrive at the stated loading start time, the seller is entitled to start loading. Should the buyer/inspector fail to arrive promptly at the loading time despite having announced to come and for this reason the seller delays loading until the buyer/inspector arrives, the buyer is required to compensate the seller for the costs of the delay.

2. The seller is not responsible for the failure to load the allocated ship if the shipping company has made other arrangements for the ship involved.

3. If the sale is made "FOB"... or "ex: Works"... or "free truck/freight car" on the side of the seller (see contract confirmation), the buyer is solely responsible for providing a suitable means of transportation for all of the transported goods (truck, ship etc.).

The means of transport will only be regarded as suitable, if it fulfils or observes all legal or otherwise relevant requirements during loading, the entire journey and when unloading, in particular those provisions of the responsible Accident Prevention & Insurance Association. The seller is entitled to reject a means of transport which clearly appears to be unsuitable. In this case, the buyer will cover the costs resulting from the suitable replacement means of transport.

4. In the case of consignments sent by rail, the seller is entitled to arrange for the shipment to be sent to the address of the buyer, in which case the buyer shall be notified, unless agreed otherwise in the contract.

5. If the goods are accepted by a third party by order of the buyer (e.g. carrier, transport or freight contractor), the bill of lading or delivery certificates which have been listed on the "Order" or/and issued blank are to be handed to the seller upon request.

6. If the goods are to be collected by vehicles supplied by the buyer, they are to be loaded as quickly as required by the operational conditions of the seller, especially at working time as stated by the seller, if appropriate in the 2nd or 3rd working shift without the seller compensating the buyer for possible costs incurred as a result of overtime works etc. In the event of operational delays of loading, demurrages of the buyer are not reimbursed. In the case, the corresponding collection by the buyer's own team is impossible due to operational requirements, the seller will attempt to make qualified staff available for this purpose at the costs of the buyer. The loading of watercrafts will be carried out according to local usage.

7. The goods are transported solely at the risk of the buyer, unless otherwise agreed in the contract.

8. If the buyer does not issue any instructions, the seller will choose the method/means of transport. In doing so, he will take the interests of the buyer into account as far as possible given the circumstances. The seller is not responsible for ensuring that the cheapest way of shipping is selected.

9. The shipping of the goods will take place during the time stated by the seller. Costs resulting from weather-related delays of the shipping (e.g. demurrage, wagon detention charges and similar) and wagon/container fees, charges for vehicles and for track connections and the cartage for cargo are to be borne by the buyer, unless otherwise agreed in the contract.

### IV. Weight

1. The quantity provided by the seller can be up to 5% over or under the agreed amount, unless otherwise stipulated in the contract. An overflow or underfill of up to 2% will be charged at the contract price, while an excess or shortage over this amount will be charged at the daily price. The day of loading is decisive for the calculation of the daily price.

2. The weight ascertained at loading is final. The seller will provide a weight certificate if required by the buyer at the time of the shipping instruction.

3. Unless otherwise agreed, for the sale or the tender in packaging/bindings, the gross weight (incl. tare weight) is to be used as the weight to be calculated (gross for net incl. packaging/bindings).

### V. Sampling

1. A sample will be taken at the loading location upon request by the seller or buyer.

2. Should the buyer request a sample to be taken, he shall state, no later than with the communication of the shipping instructions, whether the sample will be taken by a professional certified sampler at his own cost. If this request is not effected, the sample taken by the seller shall be final.

3. If the seller requests the sample to be taken by a professional certified sampler, the costs for the sampling shall be borne by him.

4. If a sample has been taken, it shall be final for the establishment of the actual condition of the goods. Otherwise, the sample taken by the seller in the works shall be final.

### VI. Packaging

1. The acceptance of the goods by the shipper with no reclamation will end the seller's liability resulting from inappropriate packaging or loading.

2. If the goods are shipped in a tank wagon belonging to the seller, the buyer is required to empty the tank wagon immediately after its arrival and immediately send it back to the shipping point at his own cost, unless the seller has issued other instructions. Unless otherwise agreed, the buyer is required to pay a rent at the corresponding daily rental rate for the provision of the tank wagon from the date on which it leaves the delivery site until the date it arrives back.
3. The buyer is liable for the loss, damage or contamination of the tank wagon provided by the seller from the date on which it leaves the delivery site until the date it arrives back.

The seller is entitled to claim the replacement or repair costs for any tank wagons which have become unusable, are damaged or lost. The buyer is required to pay the tank wagon rent up until the point in time at which the tank wagon or the replacement tank wagon of equal value is available for free use by the seller. The use of the seller's tank wagons for the buyer's own operations or those of third parties is not permitted.

4. If the delivery is agreed to take place in tank wagons or tank trains belonging to the buyer, these are to be presented immediately franco at the delivery site upon request by the seller and - unless otherwise agreed - in a clean condition ready to be filled. The seller is not responsible for impurities or other damage to the goods as a result of a lack of cleanliness or other faults or the unsuitable condition of the containers provided by the buyer. The seller is entitled but not required to clean the containers provided by the buyer at the cost of the buyer. The seller is not liable for damage to the containers or goods caused while being cleaned, if the damage is caused by simple negligence of the seller.

As long as the tank railcars which are to be provided by the buyer are not available, the seller is not required to deliver the goods. The seller is, however, entitled to arrange for the delivery to be made using his own or rented tank wagons in accordance with clauses 2. and 3., upon corresponding notification to the buyer.

#### **VII. Quality**

1. The quality of the goods to be delivered is to be in accordance with the contractual agreements.

If no other agreements exist, the goods are to be delivered in a condition which is according to custom and usage, notably regarding cleanliness and purity. The goods must correspond to the applicable legal provisions. The degree of water content and natural unwanted ingredients are not valid as an independent ground for complaint as long as they do not significantly affect the buyer's use of the goods.

The basis of the agreed quality are undamaged goods in merchantable quality in accordance with custom and usage in connection with the specifications of the seller and, respectively, the customer specifications.

2. If sales are made according to samples, this will only apply as a type sample. Slight deviations of the delivered goods - including their color and refining are permissible. The description "as previously" is to be understood as "as approximately previously".

#### **VIII. Notice of Defects**

1. Buyer shall inspect the goods carefully before accepting/confirming them to ensure that the delivery is complete and undamaged. In cases of reclamation, the buyer is responsible for ensuring that all required measures are taken, in time and in the appropriate way in accordance with applicable provisions, in particular the required statement of damage, and is required to immediately inform the seller.
2. The buyer is required to inspect the goods immediately after they are delivered and, if defects are discovered, these must be within a reasonable period reported in writing to the seller, however, no later than five days after the delivery. Immediately after this notification, the deficiencies are to be communicated in writing to the seller with detailed justifications. The deficient goods have to remain in the shipment containers, so that the seller can correctly verify the notice of defects. This does not apply only if the seller expressly states otherwise in writing, by telex or by email and if the buyer ensures that the deficient goods are stored completely separately and are not processed.
3. Before he begins processing, the buyer is required to check whether the delivered goods are suitable for their intended purpose by carrying out tests which are of a suitable scope and involving the appropriate methods.
4. If the buyer fails to orderly comply with the obligations in accordance with No. 1 to 3 or does so incorrectly, the goods will be regarded as accepted, unless the faults are of such a nature that they would not have been detected during a correctly carried out inspection/test.
5. Should a defect be discovered which was not initially detectable, the buyer is required to report this immediately and no later than five days after the discovery in accordance with no. 2. Otherwise the goods will also be regarded as accepted with regards to this defect.
6. If a claim is made in time and is legitimated, the seller - unless otherwise agreed - is entitled to initially reclaim the deficient goods and to replace them with goods in accordance with the contract. The seller is required to issue a binding statement within a preclusion period of 10 working days after the written request by the buyer, explaining whether he will make use of his right to make a replacement delivery. In order to provide the seller with sufficient grounds on which to make his decision, the buyer is required to allow an inspection of the rejected goods to be made by the seller within the prescribed time limit. Should there be no replacement delivery by the seller or if this falls through, the buyer is entitled to reduce the purchase price in accordance with section 932 para. 4 of the Austrian General Civil Code (ABGB) or rescind from the contract.
7. A claim relating to the contents of the goods is to be based on the sample taken as described in clause V. Should the buyer request such a sample to be analyzed, he shall send the sample to a certified trade chemist no later than five working days after receiving the sample. If the inspection reveals different contents of ingredients than those agreed, the seller is entitled to arrange a control analysis by another certified trade chemist. If both analyses do not differ from one another by more than 1%, their average is to be used when calculating any compensation.

In the case of larger variances, both parties have the right to request a third analysis by another trade chemist, no later than eight working days after receiving the second analysis results, who will be selected by the seller. The average of the two analyses which have the most similar results will be final when calculating any compensation in this case.

If compensation is to be paid, the costs of all analyses will be borne by the seller, otherwise they will be borne by the buyer.

#### **IX. Compensation for damages, time-barring of damage claims and claims resulting from other breaches of duty**

1. The seller is liable for compensation of damages within the scope of legal provisions, insofar as the damage has resulted from an intentional act or gross negligence by the seller, his legal representatives or employees. Liability for simple negligence is excluded, if there is no culpable breach of a significant contractual duty or loss of life, injury or damage to the health of an individual, or in the case of compulsory liability pursuant to the stipulations of the Product Liability Act (Produkthaftungsgesetz).
2. Claims for damages made by the buyer are limited to typical and foreseeable damages. This does not apply to claims which are based on intentional or grossly negligent actions or omissions of the seller, his legal representatives or employees. The limit does also not apply to liability for damages relating to a loss of life, injury or damage to the health of an individual and in cases of compulsory liability pursuant to the stipulations of the Product Liability Act (Produkthaftungsgesetz).
3. Claims made by the buyer arising from this contract relationship will become time-barred with a deadline of one year after the statutory start of the limitation period. This does not apply in the cases listed in section 933 b) of the Austrian General Civil Code (ABGB), and in the case of claims for damages resulting from a loss of life, injury or damage to the health of an individual and in cases where the seller, their legal representatives or employees are guilty of intent or gross negligence.
4. The liability for indirect damages and/or follow-up (consequential) damages from defects, in particular lost profits, is excluded.

#### **X. Price**

1. The agreed prices are quoted "ex works" plus the respectively applicable VAT, energy taxes and costs for custom and clearance fees. Discharge and other costs, which occur additionally with freight, shall be borne by buyer also in case of freight-paid delivery.
2. Should increased costs be charged due to unforeseen official measures or other expenses such as entry and exit tolls, cautions and similar for the raw materials of the goods or should entry or export tolls relating to the goods themselves be increased, the parties will consensually increase the contract price correspondingly. The same applies in case of increased actual costs, which cannot be influenced by the seller, such as in particular higher energy and insurance costs and hardship allowances.

#### **XI. Payment**

1. Unless otherwise agreed in the contract, the seller is entitled to request prepayment against the tender of goods which are ready to be loaded.
2. The buyer is not entitled to set-off or make deductions from the invoice in any way, unless the claim presented for the set-off has been accepted by the seller in writing or has been legally established without recourse. The buyer is only entitled to retain the payment, if his counterclaim is based on the same contract relationship.
3. If the buyer does not pay the agreed purchase price within the payment period stated in the contract, interest is to be charged on the overdue amount in accordance with clause XII. No. 2.
4. Irrespective of the agreed form of payment, the seller can request prepayment for the delivery, if:
  - a) the financial circumstances of the buyer significantly worsen after the conclusion of the contract or if the seller becomes aware of a fact which leads to reasonable doubts regarding the solvency of the buyer, unless payment is made in advance or the payment is secured in another way (e.g. bank guarantee);
  - b) the buyer is in default with the acceptance of a delivery or with a payment on any contract entered into with the seller; or
  - c) the company of the buyer is liquidated after the conclusion of the contract, or is transferred to a third party, is moved abroad or is given another legal form.
5. Representatives or employees of the seller are not authorized to collect payment without special written authorization.

#### **XII. Default of payment, suspension of payment by buyer**

1. Should the buyer be in default with his payments to the seller for at least one delivery arising from this or another contract, should he have suspended his payments or should events have occurred which are equivalent to a suspension of payments, or should he have failed to honor a bill of exchange or cheque in time or should he have countermanded a debit advice issued by the seller in accordance with the contract, then the seller - subject to its other rights - is at any time entitled to partially or completely rescind from individual contracts or all contracts which have not yet been fulfilled. A grace period is only required in the case of defaulted payments and must be a period of three working days. In the case of a countermanded or unrecognized debit advice, the period must be no more than 24 hours.
2. The interest rate for corporate buyer debts is 13%, but in all cases at the minimum 8% over the corresponding base interest rate. The seller can also claim for further damages.

#### **XIII. Retention of title**

1. The seller reserves retention of title regarding all goods delivered until the entire amount charged has been paid completely, including claims resulting from other contracts entered into in the running business relationship with the buyer (conditional goods). This does still apply, if the purchase price for individual goods deliveries has been paid, because the retention of title acts as a safeguard for the running open payment balance request of the seller (current account reservation). The retention of title shall also remain in existence as long as the seller is subject to any liability resulting from a bill of exchange entered into in the interests of the buyer.
2. If the seller rescinds from the contract, the buyer is required to return the goods burdened with the retention of title without undue delay. In such a case, the seller is entitled to enter the areas and storage facilities in which the conditional goods are being stored and take them into possession. The costs of taking back the goods shall be borne by the buyer.
3. The processing or alteration of the conditional goods will be considered as having been carried out for the seller as the manufacturer, at his request, without this resulting in any liability for him. The seller shall be the owner of any new goods created as a result of processing or alteration. In the case of processing involving other goods which are not the property of the seller, the seller is entitled to the new products as co-owner in proportion to the value of the conditional goods in comparison with the new products at the time when the production took place. The value of the conditional goods is the purchase price charged by the seller to the buyer. Should the buyer nevertheless acquire (co-)ownership of the new products, he already now – with the conclusion of the contract - transfers such (co-)ownership of the goods to the seller with effect to the time of acquisition of such (co-)ownership by the buyer and the buyer shall store the products for the seller.
4. The buyer is only entitled to sell the conditional goods as an orderly business transaction and burdened with retention of title, but must not pledge them, not assign them as securities or make them subject to similar provisions. Furthermore,
  - a) All buyer's claims which result from selling on the conditional goods (including any secondary rights) are herewith assigned to the seller to the extent which is required to guarantee the seller's respective open total claim. In the case of resale, the buyer shall be entitled to transfer title in the goods which are under retention of title only with the proviso that upon reselling, he informs the second buyer of the assignment of claim or notes the assignment of claim in his business records. If the conditional goods are sold with other goods ("en bloc" sale etc.) at a total price, the assignment will be made in correspondence with the invoice value of the seller for the conditional goods which are sold together with other goods.
  - b) If the conditional goods which have been sold are only in the co-ownership of the seller in accordance with no. 3, the executed assignment shall be effected at least with regard to the part of the claim resulting from the resale, which corresponds to the value of the relevant original conditional goods.
  - c) Should the buyer receive bills of exchange or cheques from the resale to his customers/buyers, buyer herewith assigns to the seller the existing corresponding claims from the bill of exchange or cheque against this customer/buyer, at a value equal to the claim transferred to the seller in accordance with lit. a) and b) resulting from the resale. The ownership of the bill of exchange or cheque certificate is herewith transferred from the buyer to the seller. The buyer shall keep the certificates for the seller. In the case of installments, the assignment remains valid until the full payment has been made by the customer/purchaser of the buyer.
5. Buyer is obliged to insure the goods against damage and to prove the conclusion of an insurance contract upon seller's demand. Buyer's claims against the insurance company up to the amount of seller's open claims for payment are herewith assigned to seller in order to secure his open claims, seller herewith accepts such assignment.
6. As far as the buyer correctly fulfills his payment obligations towards the seller, he is entitled, until revoked, to collect for the seller the outstanding claim assigned as security to the seller. This direct debit authorization is limited insofar as any disposal of such outstanding claim is only permitted step-by-step against the payment of the revenue to the seller, and only when this revenue is due. The revenue to be paid must at a minimum correspond with the amount appertaining to the individual claims transferred to the seller as security, whereby in the case of a premature or late settlement of the seller's claims, the relevant interest rate adjustment is to be taken into consideration.
 

The seller will only revoke the direct debit authorization, if there are significant doubts about the buyer's ability to pay or if the buyer is in default with any payments. If the buyer stops payments, the direct debit authorization expires without requiring a revocation declaration. In the case of a revocation or automatic expiry of the collection authorization, the buyer is required to give notice to third-party-buyers of the assignment of claim for payment to the seller, to inform the seller of all information needed to assert his rights, pass on documents and transfer all associated customer bills of exchange and cheques to the seller. The seller is entitled to also notify the debtors of the assignment. The buyer is obliged to cooperate in such case.
7. The buyer shall immediately notify the seller by telex or fax of any access by third parties to the conditional goods or to any partially or fully assigned outstanding claims which has occurred or is threatened and to immediately object to any measures taken by third parties e.g. any executionary measures relating to the conditional goods.
 

The buyer is also required to immediately pass on to the seller all required information and documents for the seller to be able to exercise his rights arising from co-ownership in accordance with clauses 3. and 4. towards third parties, in particular in the case of cessation of payment of the buyer.
8. The seller's retention of title will expire automatically when the total amount of all open outstanding funds owed by the buyer have been paid, therewith the ownership of the conditional goods to the buyer are transferred with no further action required. Upon request by the buyer, the seller shall release any securities owed to him.

9. If the buyer ceases to pay or files for bankruptcy proceedings with regard to his assets, the buyer is no longer authorized to sell, treat or process, connect or mix the conditional goods with other goods/items and is required to immediately store and label the conditional goods separately. The buyer is also required to credit the funds resulting from the outstanding claims assigned to the seller on a separate account or to keep such funds separately.
10. The seller is entitled to offset his outstanding claims against the buyer against all outstanding claims which the buyer has against the seller. This also applies, if the claims have different maturities or if one party pays in cash while the other party has arranged acceptances or customer bills of exchange.

#### **XIV. Place of fulfillment, application of law, legal venue**

1. The place of fulfillment for the delivery is the loading or dispatch site. The place of payment is the registered office of the seller.
2. Unless otherwise stated in these general sales and delivery conditions or in the contract, the legal provisions of the Republic of Austria and the practices on the Stock Exchange for Agricultural Products in Vienna shall apply under exclusion of any provisions referring to other laws and under exclusion of the application of the UN Convention on the International Sale of Goods of 11/04/1980 (CISG).
3. All legal disputes arising from or in connection with the individual contract, including this arbitration clause, shall under exclusion of ordinary legal proceedings be settled by the Arbitration Court of the Stock Exchange for Agricultural Products in Vienna.

#### **XV. Creation of a circle**

1. If the seller has purchased the same amount of the same goods or part thereof from the buyer or a subsequent buyer under the same conditions as he (the seller) sold the goods, irrespective of whether this was at the same price or not, a "circle" has been formed in relation to the amount purchased in this way.
2. The invoices for the accounted amount will then be paid between the buyers and sellers in the circle, whereby each buyer pays his seller the amount which exceeds the lowest amount in the circle. The adjustment will take place on the 15th day after the circle is formed (or on the next working day, if the 15th is not a working day), but not before the first day or after the last working day of the delivery period. Should a circle only occur as a result of the offer of the goods, the day on which the goods are to be made available is to be regarded as the settlement date.
3. If, however, the existence of a circle becomes evident only after the issuance of the delivery instructions or after their submission, the payments will be made as if there had been no circle.
4. If one of the parties in a circle ceases its payments, or has requested an extrajudicial moratorium or settlement procedure or a judicial settlement procedure or insolvency or bankruptcy proceedings relating to its assets or if this has been requested in relation to its assets, the market value on the 1st working day after the day on which the aforementioned event has become generally known will replace with lowest invoice amount (in accordance with lit.b). The payment will then be made on this basis, unless the seller and buyer of the affected contract wish to pay on the basis of the lowest invoice amount in the circle.

#### **XVI. Fiscal declaration**

1. In case of deliveries which are subject to consumption tax or European customs regulations, buyer confirms – with regard to himself and also with regard to other receivers which have been brought by the buyer – that the respective current statutory provisions are adhered to at the time of acceptance of goods. If seller as tax debtor is held liable by tax authorities due to violations of these statutory provisions caused by buyer or other receiver of the goods, seller will claim for the additionally arising taxes and further damages. In particular, in cases of deliveries to tax warehouses under duty suspension, this applies for the communicated consumption tax number and the valid license to receive goods subject to consumption tax under duty suspension. In the case this license has been deprived at the moment of transport or delivery to buyer, respectively to the receiver of the goods named by the buyer, the seller is entitled to claim from the buyer the due taxes according to the statutory tax rate without any deductions.
2. When ordering goods which are subject to mineral oil taxes the Buyer has to point out explicitly the handling of goods with respect to mineral oil taxes (e.g. in cases of deliveries to tax warehouses under duty suspension). In cases of deliveries with permit, the buyer has to present the permit in good time so that it is available to the seller with delivery at the latest. Buyer shall release seller from all disadvantages which result from the invalidity of the presented permit, an incorrect order by buyer or the violation of other tax regulations. The same shall apply for duties; the seller has to pay in case of improper use of the goods by buyer or other receivers of the good involved by buyer.

#### **XVII. Official instructions**

Should new obligations of any kind apply to the seller following the conclusion of the individual contracts as a result of mandatory regulations or other ordinances issued by an authority or a regulatory office, which affect the sale or delivery of the goods sold in accordance with the contract, the alterations or supplements to these general sales and delivery conditions resulting from such ordinances will be regarded as having been agreed between the parties.

#### **XVIII. Address of Bruck site**

Bunge Austria GmbH  
Industriegelände West 3  
A-2460 Bruck – Leitha  
Telephone: +43 (0) 2162 606 - 0 - Telefax +43 (0) 2162 606 - 18

Administration:  
Bonadiesstraße 3 – 5  
D - 68519 Mannheim  
Telephone: (0621) 3704 - 0 - Telefax (0621) 3704 102/131