

General Terms of Sale (status: 07/2022)

1. Applicability
 - 1.1 Our General Terms of Sale apply exclusively; we do not accept any terms and conditions of the buyer, which oppose or deviate from our General Terms of Sale, unless we have expressly agreed to them in writing. Our General Terms of Sale also apply when we make unconditional delivery to the buyer in knowledge of the conflicting or deviating terms of the buyer.
 - 1.2 Our General Terms of Sale also apply to any future business transactions with the buyer. All contracts shall take effect at the latest on the execution of the delivery.
 - 1.3 These General Terms of Sale do not apply in relation to consumers in the definition of Sec. 13 BGB (German Civil Code).
2. Conclusion of the contract
 - 2.1 If the order can be qualified as an offer pursuant to Sec. 145 BGB, we can accept it within two weeks.
 - 2.2 Our employees are not authorised to make any verbal agreements deviating from the written contractual agreements or provide any binding commitments beyond them.
 - 2.3 We reserve property and copyrights on calculations and information on the composition of the items delivered by us and other documents; they must not be made accessible to third parties.
3. Prices and payment
 - 3.1 Unless agreed otherwise, our prices apply „free farmyard.“
 - 3.2 If individual cost items increase in price after the conclusion of the contract for reasons outside of our control (in particular, but not limited to energy prices and taxes, levies and fees), the Parties undertake to negotiate an appropriate price adjustment.
 - 3.3 The statutory value added tax is not included in our prices. It will be indicated separately on the invoice in the statutory amount.
 - 3.4 Unless stated otherwise in the order confirmation, the net purchase price shall be due for payment without any deductions on delivery of our products.
 - 3.5 If the buyer has issued a SEPA direct debit mandate to us, the period for receipt of the required pre-notification is one (1) day before the due date of the respective amount to be debited.
 - 3.6 The buyer shall have rights to set-off and withholding only if its counterclaims have been established as final and absolute or if they are uncontested or acknowledged by us. This limitation shall not apply to claims of the buyer based on defects that result from the same contractual relationship as our claim.
 - 3.7 Invoices/account statements shall be deemed accepted, unless a written objection is submitted to us within one month from the invoice date. The date of receipt by us shall be decisive for meeting the deadline. An explicit reference to this provision shall be made on invoices/account statements.
 - 3.8 If the settlement of our claims is at risk due to justified doubts as to the buyer's capacity to pay – especially based on arrears in payments or in the event that the buyer's receivables from us are attached by third parties – we shall immediately revoke the payment targets granted by us and call our receivables due for payment immediately, without prejudice to further claims. Agreed on-account relationships can be terminated with immediate effect. Furthermore, we can make deliveries dependent on an advance payment or on the provision of securities. If the buyer fails to fulfil the request for advance payment or the provision of securities, we shall be entitled to withdraw from the contract. In case of long-term supply agreements, we shall be entitled to terminate the complete contract in this case. Other rights of termination and withdrawal remain unaffected.
4. Delivery
 - 4.1 The delivery shall be made „free farmyard,“ unless agreed otherwise. The risk of accidental destruction or accidental deterioration shall transfer to the buyer at the latest on the handover to it. The statutory provisions on the transfer of risk shall remain unaffected in case of delayed acceptance.
 - 4.2 Our liability for compensation of default damages (damage compensation besides performance) in the event of delay due to simple negligence shall be limited in total to 5% of the value of the part of the complete delivery, which cannot be used on time or not in accordance with the contract due to the delay. This shall not apply in the cases defined under Sec. 8.3.
 - 4.3 We reserve deviations from the ordered quantities within the limits of commercially common tolerances (±5%) Decisive shall be the weight determined by us. We shall deliver products in the commercially common, healthy and unspoilt quantity. We are entitled to modify the composition of our products, even without notification to the buyer, insofar as the change is reasonably acceptable to the buyer in consideration of the reciprocal interests. This requires in particular that the factors determining the value of our products remain unaffected. We provide consultations relating to the delivery of our products according to the best of our knowledge based on our know-how and experience. All statements and information provided in connection with each individual delivery are non-binding and shall not release the buyer from the duty to perform its own checks, inspections and tests without delay. The customer shall have the responsibility for compliance with legal and regulatory requirements in the use of our products.
 - 4.4 Adherence to our delivery and completion dates requires the timely and due fulfilment of the buyer's obligations. The delivery period shall not begin before the provision of documents, approvals and releases potentially to be obtained by the buyer and not before the receipt of an agreed instalment or prepayment.
 - 4.5 War, strike, legitimate lockout, shortages of raw materials and energy, operational and traffic problems, sovereign acts, legislative or administrative measures, and all cases of force majeure – including at our suppliers – which obstruct us in the performance of our delivery obligations, shall release us for the duration of the obstruction and to the extent of its effects from the delivery obligation and extend the delivery period appropriately. If such events persist for longer than two months, they will entitle each of the Parties to withdraw from the contract without the buyer holding a claim to damage compensation.
 - 4.6 Should it be impossible to perform our delivery because we receive no supply from our suppliers at none of our fault, even though we have concluded a congruent covering transaction with the buyer for the products to be delivered, prior to the conclusion of the contract, we shall be entitled to withdraw from the contract. In this case, we shall inform the buyer without delay that the ordered products are not available and we shall refund any already paid consideration without delay.
5. Special provisions in contracts for call-off delivery
 - If call-off delivery is agreed under our contracts, the delivery will be made free farmyard and be called off in equal monthly instalments. The call off of the monthly quantities shall be declared by the buyer by the end of the respective month and the delivery shall then be made within one week from the call off. If the buyer does not fulfil the call-off obligation within the prescribed period, we shall have the right to set the buyer a grace period of two business days for the call off. Following an unsuccessful expiration of the period, the right to the delivery of the relevant partial quantities shall expire and we shall be entitled to demand damage compensation for non-fulfilment or the refund of expenses subject to the statutory conditions. If the buyer does not fulfil its call-off obligation again in another month, in spite of a warning issued after the first violation, we shall have the right to terminate the entire contract for cause with immediate effect regarding all quantities outstanding up until the end of the contract period. Further claims remain unaffected.
 - If the actually called off contract quantity (actual quantity) falls short of the contract quantity agreed for this period (target quantity) in the first half of the contract period, we shall be entitled (but not obligated) to reduce the agreed target quantity for the remaining contract period to the quantity that equals the actual quantity called off up until then. The contract quantity shall be adjusted by written notification to the buyer directly at the end of half the contract period. The call off of the reduced actual quantity shall continue to be made in equal monthly instalments. If the delivery date for the last called off instalment no longer falls within the period of the contract taking into consideration a delivery period of one week from the call off and if a new contract already applies between us and the buyer for the time thereafter, we shall be entitled to charge the relevant instalment at the price agreed under the new contract. If no new contract applies for the subsequent time, the Parties shall conclude an individual price agreement in reference to the day of the delivery in this case for the relevant instalment in consideration of the development of the market prices.
6. Duties to cooperate
 - If we assume the transport, the buyer shall ensure suitable and safe access and sufficient space for unloading at the agreed place of delivery. The buyer shall ensure in particular that the driveway withstands the weight of the loaded transport vehicle of approx. 40 tonnes. If there should be any doubts in this regard, the buyer shall point this out to us on time and inform us of an alternative access possibility or alternative place of unloading. If the buyer does not duly fulfil its cooperation duties, it shall be liable to us for all damages resulting from thus, unless it has no fault for the breach of duty.
7. Warranty
 - 7.1 The buyer's warranty rights require that it duly inspects the delivered products according to the statutory provision in Sec. 377 HGB (German Commercial Code) for defects and notifies of any defects without delay. Defects shall be notified in writing. The object of delivery shall be accepted by the buyer even if it has insignificant defects, without prejudice to the buyer's further rights.
 - 7.2 If there is a defect on the purchased item or the performed services, we shall be entitled and obligated to re-deliver or rework at our choice. Furthermore, the statutory warranty rights apply with the proviso that the damage compensation claims and claims for the refund of expenses shall apply only on the conditions of Sec. 8.
 - 7.3 We shall not be liable for the suitability of the delivery for a purpose intended by the buyer, if such purpose is not agreed by contract nor consistent with the contractually assumed or customary use. Subject to the explicit agreement stating otherwise, the suitability of the products for the manufacturing of non-genetically modified products in the definition of Regulations (EC) No 1829/2003 and No 1830/2003 shall not be owed.
 - 7.4 In the event of a claim of defect with regard to grain and feed, the buyer shall extract at least 5 kg as sample without delay upon agreement or have this be extracted by a sworn sampler contracted by us and provide it to us for analysis. The sampling by the buyer, if the buyer is a business, shall take place according to the sampling conditions printed in the Annexes II and III of the standard conditions in the German grain trade, which shall be made

- available to the buyer on request. We are entitled to be present or represented during the sampling. The samples shall be analysed in an analysis institute accredited/certified pursuant to DIN EN ISO 17025/2000 or comparable standards. We will not accept any other results of analysis regarding undesirable substances/contaminations. Both Parties have the right to have a repeated analysis be conducted after receipt of the certificate for the first analysis with information being given to the counter party. If the analyses differ from each other, each of the Parties shall be entitled to demand a third analysis after presentation of the 2nd analysis result. In that case, the median value of the analyses, which approximate each other the most, shall be decisive. In the case that our delivered products are tested by authorities, we shall be given the opportunity in any case to conduct a cross check, notably by immediate notification and provision of original contrasting samples.
- 7.5 If we are not the producer of the object of delivery but if we receive the products from an upstream supplier, we shall be entitled to assign our own warranty claims against this upstream supplier to the buyer. The buyer accepts our assignment. The buyer is obligated to assert and enforce the warranty claims assigned to it initially outside of court against the upstream supplier. Up until then, the buyer shall be prevented from asserting its corresponding claims against us to the extent of the assigned warranty claims. Our subsidiary liability shall apply only if the buyer has been unsuccessful in the out-of-court enforcement of the warranty claims against the upstream supplier. During the period of enforcement of these warranty claims against the upstream supplier, the limitation period in relation to us shall be suspended. The limitation to subsidiary liability shall not apply to damage compensation claims of the buyer based on an intentional or gross negligent breach of duty or based on an injury to life body or health.
- 7.6 Claims for defects shall lapse by limitation at the end of one year from delivery, in the event of intent or gross negligence or in the event of a culpable injury to body, health or life, the statutory warranty period shall apply in deviation from this.
8. Liability
 - 8.1 Claims for damage compensation shall be excluded, unless they are based on gross negligence or intent by us, our legal representative or our vicarious agents or based on a breach of essential contractual duties. Essential contractual duties are such the fulfillment of which is required for reaching the purpose of the contract and upon the fulfillment of which the contractual partner regularly relies and may rightly rely. However, unless we are culpable for intent, our liability shall be limited to the damage typically predictable for the contract. The liability limitation shall apply equally if the buyer demands the refund of useless expenses instead of a claim for damage compensation in lieu of performance.
 - 8.2 Liability for breaches of the labelling obligation according to Regulation (EC) No 1829/2003 and No 1830/2003 shall be excluded, unless we, our legal representative or vicarious agents are accused of intent or gross negligence.
 - 8.3 The above liability limitations shall not apply to damages arising from injury to life, body or health. Compulsory liability pursuant to the Product Liability Act and any liability based on Sec. 24 LFGB (German Food and Feed Code) shall also remain unaffected.
9. Reservation of title
 - 9.1 We reserve the title of the object of delivery up until receipt of all payments that are in our entitlement against the buyer based on the present and future business relationship. In the event of any actions by the buyer contrary to the contract, in particular in the event of a payment delay, we shall be entitled to withdraw from the contract and take back the object of purchase.
 - 9.2 The buyer is obligated to treat the object of delivery with care. It is obligated in particular to protect it appropriately and purchase insurance at its own cost for fire, water and theft damage with cover of the value as new, unless it is intended for immediate consumption.
 - 9.3 In the event of attachments or other interventions by third parties, the Customer shall inform us immediately in writing. If the third party is unable to refund us for the legal and out-of-court costs for the defence of our rights in and out of court, the buyer shall be liable for the loss incurred by us.
 - 9.4 The buyer is entitled to resell the object of delivery in the course of ordinary business. However, on this day already, it assigns to us all claims up to the amount of the final invoice including the statutory value added tax, which arise for it against its buyers or third parties from the resale, notably regardless of whether the object of delivery has been resold with or without processing. The buyer shall be authorised to collect these receivables also after the assignment. Our authority to collect these receivables ourselves remains unaffected thereof. However, we reserve the right not to collect the receivables for as long and insofar as the buyer fulfils its payment obligations and does not default on payment and particularly for as long as it has not filed for insolvency or settlement proceedings or a similar discontinuation of payments has occurred. If this is the case, however, we may demand that the buyer disclose the assigned receivables and their debtors, provide all information required for collection, surrender the related documents, and inform the debtors of the assignment.
 - 9.5 The processing of the object of delivery by the buyer shall always be done on our behalf. If the object of delivery is processed or mixed with other items that are not our property, we shall acquire joint ownership of the new object in proportion of the value of the object of delivery relative to the other items processed with it or mixed with it at the time of the processing or mixing. The item produced by processing or mixing is subject to the same provisions as the delivered item subject to the retention of title.
 - 9.6 If the object of delivery, regardless if it is processed, mixed or if it is in the condition as delivered by us, is fed to animals, we shall acquire co-ownership of the animals in proportion of the value of the object of delivery relative to the sales price of the respective animal as applicable at the time of the feeding. If the mixing, processing or feeding takes place in a manner so that the buyer's object must be regarded as the primary object, it shall apply as agreed that the buyer shall transfer to us the co-ownership of the object at the rate named in clause 1. The buyer shall store the co-ownership created this way on our behalf. This shall apply expressly also to the feeding of the product delivered by us to animals with regard to them. The foregoing provisions shall also apply in the case that the animals fed with the object of delivery are butchered, frozen or otherwise processed. In these cases, the buyer shall be deemed the custodian.
 - 9.7 We undertake to release securities provided by the buyer on its request, insofar as the value of our securities exceeds the claims to be secured plus interest by more than 20%. We shall have the choice of the securities to be released. The reference value is the market price; if such cannot be determined this shall be the purchase price.
10. Use of as seeds
 - Grain that has not been expressly sold as seed may not be used as seed within the territory of the Federal Republic of Germany. In case of a sale and also resale, the purchaser must be informed of this.
11. Final provisions
 - 11.1 All disputes arising from or in connection with the contract concluded between us and the buyer shall be decided at our choice by the arbitration board of Verein der Getreidehändler der Hamburger Börse e.V., Hamburg (Grain Traders Association of the Hamburg Stock Exchange) or the ordinary court at the place of our registered office. If the buyer maintains its registered office in Germany, the option shall apply in favour of the ordinary court at the place of our registered office only if the buyer is a merchant, legally entities of public law or public-law investment fund. If we pursue a decision by the arbitration board, its arbitration rules shall determine the composition of the arbitration board and the procedure. In the case that the buyer intends to file lawsuit against us, we undertake to exercise our option to choose between the ordinary court and the arbitration board in pretrial proceedings on the buyer's request, within an appropriate period set to us, which may be no less than three business days. If we do not respond within the set period, the option shall transfer to the buyer. It shall make its choice immediately and inform us in writing.
 - 11.2 Unless a written agreement states otherwise, our permanent place of business is the place of fulfilment.
 - 11.3 Exclusively the law of the Federal Republic of Germany applies to all legal relations between us and the buyer, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

H. Bröring GmbH & Co. KG P.O. Box 11 09 49407 Dinklage
Haneberg & Leusing GmbH & Co. KG Ramsberg 99 48624 Schöppingen