

## 1. General scope of application

1.1 The General Terms and Conditions of Sale (GTCS) apply to all deliveries from Demeter-Felderzeugnisse GmbH, hereinafter also referred to as DFE, to entrepreneurs. When concluding a contract for a delivery according to these GCS, the buyer confirms that he is an entrepreneur and not a consumer. For all deliveries of DFE, also for all future business transactions, the following GTCS as well as the supplementary special conditions mentioned therein are exclusively decisive if no deviating agreements have been made. Conflicting conditions or conditions of the buyer that deviate from these GCS are not acknowledged, unless DFE has expressly agreed to them in writing. These GCS also apply if DFE executes the order to the buyer without reservation in the knowledge of conflicting conditions or conditions of the buyer that deviate from these GCS. The invalidity of individual conditions does not affect the validity of the remaining conditions. The same applies if individual conditions do not become part of the contract. Separate General Terms and Conditions (GTC-OT) apply to our online trade (OT).

1.2 In addition to the General Terms and Conditions of Sale, the following special terms and conditions shall apply subordinately, depending on the subject matter of the contract, with the proviso that in the event of disputes, the arbitration clause under clause 10 shall be agreed in deviation from the aforementioned terms and conditions:

1.2.1 For trade in fruit and vegetables: The conditions for the trade in fruit and vegetables, whether fresh, frozen or intended for industrial use (COFREUROP).

1.2.2 For trade in cereals, by-products, straight feeding stuffs: Unified Contract Terms for the German Cereals Trade together with the Additional Provisions for Trade in Organic Cereals of the Grain Traders Association of the Hamburg Exchange e.V. or, in the case of contracts for malting barley, the Unified Contract Terms for the German Cereals Trade together with the Additional Provisions for Transactions with German Malting Barley.

1.2.3 For trade in oil, oil meal and comparable products: Unified Contract Terms for the German Cereals Trade in connection with the oil mill terms and conditions of the respective mill.

1.2.4 For trade in seed: General Conditions of Sale and Delivery for Seed under the Seed Trade Law with the Exception of Seed Potatoes and Sugar Beet Seed (AVLB Saatgut).

1.2.5 For trade in potatoes, seed potatoes:

For sales in Germany: German Terms and Conditions for Potatoes, Berlin Agreement 1956, version of 9 December 2010.

For sales outside Germany: RUCIP 2006 Terms and Conditions for Inter-European Trade in Potatoes, together with the Rules for Expert Assessment for Potatoes.

1.2.6 For trade in compound feed: "Hamburger Futtermittel-Schlusschein".

1.2.7 For trade in roughage:

For sales in Germany: Deutsche Raufutter-Handelsbedingungen (German conditions for trade in roughage).

For sales outside Germany: REPEF European Terms and Conditions for Trading in Straw, Roughage and By-Products.

The conditions shall be made available to the buyer upon request.

## 2 Conclusion of contract

2.1 An order of the buyer received on the order form of DFE is to be qualified as an offer in the sense of Section 145 German Civil Code (BGB). This offer can be accepted by DFE within one week in the form of a written order confirmation by e-mail, by post or by fax.

2.2 All agreements made between DFE and the buyer are set down in full in writing in the respective contractual declarations. The employees of DFE are not authorized to make verbal promises that deviate from the written contract agreement.

### 3. Terms of payment - Prices

3.1 Unless otherwise agreed in the order confirmation, all prices are EXW Incoterms 2020 (EX WORKS), net, plus the statutory value added tax.

3.2 Invoices are due immediately. If payment is not received within 30 days after the due date and receipt of an invoice or an equivalent request for payment, the buyer is in default without any further reminder. In this case, DFE is entitled to demand interest on arrears in the amount of 9% points above the base interest rate p.a..

3.3 DFE is entitled to adjust the purchase price accordingly in the event of changes in transport costs and tariffs not foreseen at the time of the conclusion of the contract and other costs beyond the control of the DFE, which lead to an increase in the total costs of the fulfilment of the contract.

3.4 If the buyer is in default of payment of more than € 500 to DFE under the respective contract or any other contract, DFE's entire claims shall become due immediately. If the buyer is in default of payment according to sentence 1 or if he has revoked a direct debit issued to him by DFE according to the contract or has allowed it to go back unpaid, then DFE is entitled - subject to other rights - after the unsuccessful expiry of an appropriate grace period for the payment of the amounts due, to withdraw from individual or all contracts not yet processed in full and/or in part and / or to demand compensation for damages due to non-fulfilment subject to the statutory requirements. Insofar as the buyer has issued a SEPA direct debit mandate, he assures to ensure sufficient coverage of his account. Costs incurred due to non-payment or reversal of the direct debit shall be borne by the buyer unless he can prove that he is not responsible for the reversal.

3.5 The buyer is only entitled to rights of set-off or retention if his counterclaims are established by a non-appealable court decision, undisputed or acknowledged by DFE. This restriction does not apply to claims of the buyer due to the (partial) non-fulfilment of the contract or due to defects, insofar as these claims arise from the same contract as the claims of DFE.

3.6 If the financial circumstances of the buyer deteriorate after conclusion of the contract and if the fulfilment of the claims of DFE is endangered as a result, then DFE is entitled to make the fulfilment of its contractual obligations dependent on an advance payment or a security deposit. If the buyer does not comply with a corresponding request within a reasonable period, DFE is entitled to withdraw from the contract.

3.7 The assignment of claims against DFE requires the consent of DFE.

### 4 Delivery and Delivery time

4.1 The start of the delivery time offered by the DFE requires the clarification of all technical questions between the DFE and the buyer.

4.2 Unless otherwise agreed in writing, delivery and transfer of risk are always EXW (according to Incoterms 2020) of the warehouse or production facility of DFE or the warehouse or production facility of DFE's contractual partner on the supply side. DFE fulfils its contractual obligation upon making the goods available for collection. DFE is not responsible for damages and / or consequential costs in the event of delayed delivery by external service providers, unless these are due to the fault of DFE.

4.3 DFE is entitled to provide the contractual service in partial deliveries, as far as this is reasonable for the buyer. If delivery on call is agreed, the buyer must call within a reasonable period.

4.4 Insofar as DFE is liable in the case of a delay in delivery according to the legal provisions, the liability for damages caused by delay (damages in addition to performance) is limited to 5% of the net price of the delayed delivery except for intent or gross negligence. Liability for personal injury remains unaffected. Liability for damages in lieu of performance shall be determined in accordance with clause 8.

4.5 If the delivery is made impossible or excessively difficult by events of force majeure such as natural disasters, crop failures or shortfalls, pandemics and epidemics, official measures or measures of other control bodies, strikes, or similar circumstances for which DFE is not responsible, also at suppliers of DFE, then DFE is released from the obligation to deliver for the duration of the hindrance and its after-effects. In the case of pandemics and epidemics, this also applies if these had already occurred at the time of conclusion of the contract, insofar as their concrete effects on the contract were neither known nor concretely foreseeable at the time of conclusion of the contract. DFE will inform the buyer immediately about the occurrence of the hindrance and its expected duration.

If the hindrance lasts longer than three months or if it is otherwise unreasonable for one of the parties to adhere to the contract due to the duration of the hindrance, each of the parties is entitled to withdraw from the contract. In this case, DFE will refund the buyer any purchase price already paid.

4.6 The delivery is also subject to correct and timely self-delivery. If DFE is not completely supplied due to crop failures or shortfalls on the part of our upstream suppliers, DFE is also entitled to deliver only to the extent that corresponds to the percentage of the harvest in the areas of its upstream suppliers.

4.7 The buyer undertakes to release DFE, without remuneration, from any take-back obligations with regard to transport packaging and all other packaging, which affect DFE on the basis of the regulations of the Packaging Act; except for reusable packaging and reusable pallets.

4.8 If the buyer is in default with his performance of contract, then DFE is entitled, after the unsuccessful expiry of a reasonable grace period set by DFE, insofar as such grace period is not dispensable according to the legal provisions, to withdraw from the contract or to sell or auction the goods on the open market. DFE is entitled to demand compensation for damages due to non-fulfilment, unless the buyer proves that he is not responsible for the breach of duty. The same applies if the buyer is only in default with regard to a partial performance.

## **5 Recipes, Competition**

5.1 DFE reserves the right to deviate from the recipe at any time, unless otherwise agreed between the buyer and DFE. Within the framework of an existing contract, this only applies insofar as the deviation is reasonable for the buyer and in particular neither impairs the suitability for a contractually agreed and otherwise usual purpose, nor leads to a reduction in the value of the goods.

5.2 During the term of the contract, at the longest within a period of 5 years from the conclusion of the contract, the buyer may not manufacture, have manufactured or market products which are essentially identical to the contractual products with regard to the formulations.

## **6. Rights in case of defects**

6.1 The buyer is obliged to inspect the delivered goods immediately after delivery and to notify the DFE in writing of any recognisable defects without delay (at the latest by the second working day after taking delivery of the goods). The buyer's duty to inspect also extends to the completeness / defectiveness of the shipping documents, documents, labelling, in particular to all documents confirming the organic conformity of the goods. Further obligations to examine and to give notice of defects remain unaffected. The buyer is obliged to request available analyses before further processing of the delivered goods or to analyse the goods himself.

6.2 Notices of defects are only acknowledged as such by DFE if they have been communicated in writing. Complaints made to field staff or transporters or other third parties do not constitute formal or timely complaints.

6.3 Any defects which are notified late, i.e. contrary to the above obligations (6.1 and 6.2), are - with the exception of fraudulently concealed defects - excluded from liability for defects.

6.4 The return of the goods to DFE, which is necessary in the event of a defect, can only take place with the prior agreement of DFE. Returns that are made without the prior consent of DFE do not need to be accepted by DFE. In this case, the buyer bears the costs of the return.

6.5 The existence of a defect, which has been communicated by an effective notice of defect, establishes the following rights of the buyer:

6.5.1 In the event of a defect, the buyer first has the right to demand subsequent performance from DFE.

6.5.2 The right to choose whether a new delivery of the item or a rectification of the defect takes place is at the discretion of DFE.

6.5.3 In addition, DFE has the right to carry out a new supplementary performance, again at its own discretion, if a supplementary performance attempt fails.

6.5.4 If the second attempt at subsequent fulfilment is also unsuccessful, if subsequent fulfilment is impossible or unreasonable, or if it is refused by DFE, the buyer is entitled to withdraw from the contract or to reduce the purchase price under the legal conditions. Claims for damages only exist within the scope of clause 8.

6.6 The limitation period regarding liability for defects is one year from delivery of the goods. This does not apply to claims for damages due to intent or gross negligence or due to culpable injury to life, body or health.

6.7 The buyer must in any case prove that the defect already existed at the time of delivery of the goods.

6.8 Declarations regarding the quality and durability of the goods, with which DFE grants the buyer additional rights in the event of a warranty claim, without prejudice to his legal claims, only represent a guarantee of quality and durability in the sense of §443 BGB if DFE has expressly designated them as a guarantee. The rights of the buyer in the case of a warranty arise exclusively from the warranty declaration.

## 7. Retention of title

7.1 DFE retains ownership of the purchased goods (reserved goods) until all claims of the DFE from the business relationship, including future claims, also from contracts concluded at the same time or later, have been settled (balance claims). This also applies if individual or all claims of DFE have been included in a current invoice and the balance has been drawn and acknowledged.

7.2 In the case of behaviour of the buyer that is contrary to the contract, in particular in the case of default of payment, DFE is entitled to withdraw from the contract according to the statutory requirements and to take back the purchase item. For this purpose, DFE may enter the buyer's premises in which the goods subject to retention of title are stored and take possession of the goods subject to retention of title; the buyer bears the costs of the repossession.

7.3 The buyer undertakes to store the purchased goods properly and, if measures are necessary to maintain the value of the goods (cooling, ventilation, etc.), to carry these out immediately at his own expense.

7.4 The buyer is not permitted to assign or pledge the goods subject to retention of title as security. The Buyer shall immediately notify the DFE in writing of any seizure or other intervention by third parties. Insofar as the third party is not in a position to reimburse DFE for the court and out-of-court costs of an action in accordance with § 771 ZPO, the buyer is liable for the loss incurred by DFE.

7.5 The buyer is entitled to resell the purchased item in the ordinary course of business, however, he already now assigns to DFE all claims to the extent of DFE's claims (invoice, final amount plus the statutory value added tax), which accrue to him from the resale against his buyers or third parties, regardless of whether the purchased item has been resold without or after processing. The buyer remains authorised to collect this claim even after the assignment; DFE's authority to collect the claim itself remains unaffected by this. However, DFE undertakes not to collect the claim as long as the buyer meets his payment obligations from the collected proceeds, is not in default of payment, in particular no application for the opening of composition or insolvency proceedings has been filed, or payments have been suspended. If this is the case, however, DFE can demand that the buyer informs it of the assigned claims and their debtors, provides all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment.

7.6 The processing, treatment or mixing of the object of sale by the Buyer shall always be carried out on behalf of DFE, without any obligations arising for DFE as a result. If the purchased item is processed or mixed with other items not belonging to DFE, DFE acquires co-ownership of the new item in a proportion that corresponds to the value of the goods subject to retention of title (invoice, final amount, incl. VAT) in relation to the value of the goods mixed with the goods subject to retention of title at the time of the mixing or blending.

7.7 DFE undertakes to release the securities to which it is entitled at the request of the buyer insofar as the realisable value of the securities exceeds the claims to be secured by more than 20%. The choice of the security to be released shall be incumbent on DFE.

## 8. Liability

DFE is liable according to the statutory provisions, insofar as the buyer asserts claims for damages, which are based on intent or gross negligence or a culpable violation of an essential contractual obligation. Essential contractual obligations are those whose fulfilment is necessary to achieve the purpose of the contract and on whose fulfilment the buyer regularly relies and may rely. Insofar as DFE can neither be charged with intent nor gross negligence, the liability for damages in the aforementioned cases is limited to the foreseeable damage typical for the contract.

Liability due to culpable injury to life, body or health remains unaffected; this also applies to the mandatory liability according to the Product Liability Act as well as to the mandatory liability according to Section 24 of the German Food and Feed Code (LFGB).

Unless otherwise provided above, liability for damages shall be excluded irrespective of the legal nature of the asserted claim.

The above provisions apply accordingly, insofar as the buyer demands compensation for futile expenses instead of a claim for compensation for damages instead of performance.

Insofar as the liability for damages against DFE is excluded or limited, this also applies with regard to the personal liability for damages of the legal representatives, employees and vicarious agents.

## **9. Trademarks**

The buyer is not entitled to change trademarks and other marks of DFE on the goods or to remove them from the goods, the packaging or the advertising. The trademarks may only be used in media other than those provided by DFE, except for the customary advertising on the buyer's website(s), after prior consultation with and consent of DFE. This applies in particular to use on the internet, e.g. as a domain name or in social media.

The examination of the risk of a trademark infringement for the distribution of the goods in territories in which the trademarks of DFE do not enjoy protection is the responsibility of the buyer.

## **10. Compliance with legal regulations abroad**

The buyer of the goods is solely responsible for compliance with any special national regulations and legal framework conditions in the recipient country.

## **11. Applicable law, arbitration agreement and place of jurisdiction**

11.1 Subject to the provision under clause 11.2, all disputes arising out of and in connection with the contract shall be finally settled by the Arbitration Court of the Mannheim Commodity Exchange, E4, 12-16, D-68063 Mannheim, Germany, in accordance with the Arbitration Rules of the Südwestdeutsche Warenbörse e.V., excluding the ordinary courts of law.

11.2 In deviation from clause 11.1, if the contractual partner is a merchant, a legal entity under public law or a special fund under public law, DFE is optionally entitled to bring an action before the ordinary court instead of bringing an action for arbitration. In this case, the exclusive place of jurisdiction shall be Darmstadt. In the event that DFE brings an action before the ordinary court, the arbitration agreement does not prevent the assertion of counterclaims of the buyer by way of set-off or counterclaim within the framework of these proceedings.

11.3 German law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

## **12. Partial invalidity**

Should any of the above clauses be invalid, the remainder of the contract shall remain unaffected. Instead of the ineffective clause, the corresponding legal regulations shall apply.