

Grofor e.V. Adolphsplatz 1 (Börse) Kontor 24 D-20457 Hamburg

**General Terms and Conditions for trading with
plant and animal/marine animal oils, fats and fatty acids**
prepared by Deutscher Verband des Großhandels mit Ölen,
Fetten und Ölrrohstoffen e.V., - GROFOR -, Hamburg
New version dated 01.04.2010

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Deutscher Verband des Großhandels mit Ölen, Fetten und Ölrrohstoffen e.V. - GROFOR -, Adolphsplatz 1 (Börse), 20457 Hamburg, recommends its members to use the following General Terms and Conditions for trading with plant and animal/marine animal, oils, fats and fatty acids without obligation for business transactions. The members are free to choose whether to follow the recommendations or to use other resp. supplementary general business terms and conditions.

Bayerische Hypo-
und Vereinsbank AG
Bank code 200 300 00
Account no. 137 190
IBAN:
DE05 2003 0000 0000 1371 90
BIC:
HYVEDEMM300
VAT-ID no. DE 118 721 318

§ 1 Arbitration clause

1. The parties shall abide by the following conditions as well as the conditions of the arbitration conditions of "Deutscher Verband des Großhandels mit Ölen, Fetten und Ölrrohstoffen e.V. - GROFOR -, Adolphsplatz 1 (Börse), 20457 Hamburg" valid on the date the action was filed.
2. All disputes arising with regard to or in connection with this agreement and its conclusion as well as with possible further agreements made in this connection will be decided by the arbitral tribunal of „GROFOR e.V“ without the possibility of recourse to legal action, not just between the buyer and the seller but also between the contracting parties and brokers.
3. The agreement of the arbitral tribunal is also effective for the decision regarding the validity of the business transaction if this is disputed by one of the contracting parties for whatever reason.
4. Acknowledged claims, claims from cheques and bills of exchange as well as purchase price claims, which had not been disputed up to then in spite of warnings having been sent, can be asserted at the court of law or the arbitral tribunal according at creditor's option.

§ 2

Letters of confirmation

1. If broker's notes or letters of confirmation are exchanged or issued by a contracting party or a broker, their contents are decisive for the contractual relationship. All earlier agreements are therewith cancelled. Broker's notes and letters of confirmation that are not immediately objected to in writing are valid as having been approved.
2. If broker's notes and/or letters of confirmation are issued, the seller's letter of confirmation that remains uncontested is decisive in this respect. If only a buyer's confirmation letter and a broker's note are issued, the buyer's letter of confirmation that remains uncontested is valid.
3. If other verbal agreements are made at a later date, these shall only be valid if they are confirmed immediately in writing by at least one party. If no written objection to such documents is issued immediately, they shall be deemed to have been approved.

§ 3

Contracts on call

1. Unless the parties have made other agreements, the concluded contracts are to be fulfilled even in the case of agreed collection by the buyer at the buyer's call.
2. The buyer's call declaration must put the seller in a position to load, dispatch or hand over the goods within the agreed delivery resp. acceptance period.
3. The buyer must inform the seller of the requested delivery resp. acceptance date at least 5 business days beforehand.
4. If the buyer does not issue a call declaration by the 10th business day before the expiry of the agreed delivery resp. acceptance period, the seller is entitled to rights due to non-performance from § 9 after the relevant grace period in accordance with § 8 has expired without results.
5. If the buyer issues a call declaration in line with the contract and if the seller does not make the goods available at the time stated in the call declaration, the buyer is entitled to rights due to non-performance from § 9 after the relevant grace period in accordance with § 8 has expired without results.

§ 4

Further definition of the delivery date

1. If a sale is made for a delivery within a certain period of time, this delivery has to be made within this period at the buyer's option. It is to be delivered and received with contracts containing the marking:
 - a) "Delivery immediately": within three business days after contract conclusion;
 - b) "Delivery promptly": within seven business days after contract conclusion;
 - c) "Delivery within a stated month": within the month;
 - d) "Delivery within a period of several months": with about the same part quantities monthly;
 - e) "Delivery successively": within the agreed period with about the same part quantities
2. If no agreement has been made about the delivery time, paragraph 1 a) is shall apply.

§ 5

Contracts for acceptance/collection

1. If a sale is made for acceptance or collection within a certain period, the acceptance or collection has to be done within this period at the buyer's option. The deadline regulations of § 4 a) to e) apply correspondingly.
2. The buyer must notify and provide the road vehicle with sufficient time for the seller to be able to deliver within the agreed acceptance period.

§ 6

Place of performance, freight and transport risk

Providing the parties have not concluded any agreements to the contrary (such as, e.g. the Incoterms), the following regulations shall apply:

1. Place of performance for the delivery is the loading point at which the goods are taken to the vehicle for transport purposes. If a carriage-paid sale is made, this is then the place of performance.
2. If the transaction is made free on rail or road vehicle, the buyer shall bear the freight costs and the transport risk.
3. In the case of contracts that are concluded freight free, the seller shall bear the freight costs and the buyer shall bear the transport risk.

4. In the case of sales with carriage-paid destination, the seller shall bear the freight costs up to this place and the transport risk.

§ 7 Grace period

1. In the case of the agreement not being performed in time, the non-defaulting party is entitled to set a grace period after the expiry of the execution period. This needs to be made in writing to become effective.
2. The term of a grace period for the delivery resp. acceptance is:
 - a) three business days if a performance time of less than one month is agreed;
 - b) seven business days if a performance time of one or more months is agreed.
3. The grace period for issuing a call declaration is one business day.
4. A grace period which has not allowed for enough time is not ineffective; rather the grace periods stipulated in paragraphs 2 and 3 shall be set in motion. A grace period which has allowed too much time is effective as it stands.
5. Setting a grace period is not required,
 - a) if it has been agreed that the contract should stand or be dropped on a certain day (fixed date transaction);
 - b) if the other contractual party expressly declares in writing that it will not fulfil the contract.

§ 8 Rights in the case of non-fulfilment

1. After a grace period has elapsed without results the non-defaulting party is entitled,
 - a) to withdraw from the contract and/or
 - b) to claim damages instead of the performance and/or
 - c) to store the goods for the account of the defaulting party at a different place if the seller has announced the storage together with the setting of the grace period.
2. The rights from paragraph 1 a) and b) are also given in cases where a grace period in accordance with § 7, paragraph 5 is not required.
3. If damages are to be claimed, the seller can have a substitute sale resp. the buyer may have a substitute purchase for the account of the defaulting party performed directly or through a broker. This measure is to be performed within ten business days after the grace period has elapsed resp. after the occurrence of the non-fulfilment.
4. Furthermore, the damage claim due to non-fulfilment can be asserted through determining the difference between the contractual price and the daily price (price determination).

The price has to be determined according to the choice of the non-defaulting party either through

- a) a broker to be nominated by the board of Grofor or its representative (price determination procedure, see § 36 of the conditions of the arbitral tribunal),
 - b) a broker to be commissioned by the non-defaulting party
or
 - c) the responsible arbitral tribunal itself in arbitration proceedings.
5. Key date for the price determination is the day following the business day after the grace period has elapsed. The same shall apply in the cases of § 7 paragraph 5.
 6. The costs for the price determination are to be borne by the defaulting party.
 7. The non-defaulting party must inform the defaulting party immediately by telex after the grace period has elapsed or in the case of one of the cases stated in § 7 paragraph 5 being on hand (see § 23), of which right he will be availing.
 8. If the non-defaulting party fails to proceed corresponding to paragraph 7, he shall only be entitled to the right of price determination. The same applies if an announced covering hedging transaction was not carried out or not carried out in time (see paragraph 3).
 9. The responsible arbitral tribunal is entitled and upon the application of one party obliged to check a substitute transaction performed in accordance with paragraph 3 (substitute sale resp. substitute purchase) or a price determination in accordance with paragraph 4, letter a). Should the result of checking the substitute transaction or the price determination be that these were not performed properly or led to an obviously unreasonable result, the arbitral tribunal must determine the price difference taking into account the market situation itself.

§ 9

Impediments to performance

1. If fulfilling a contract after it has been concluded is impeded due to force majeure, export or import bans nationally or internationally, official measures or other circumstances for which one of the contractual parties is not responsible, the contract or its unfulfilled part is cancelled. The other contractual party is to be informed immediately about the stated events after they become known. If this is omitted, the impediment to perform cannot be legally asserted.
2. If the fulfilment is prevented through elementary events or through upheavals, strikes,

lockouts, a loading ban or other circumstances to be deemed equal, the execution period shall be extended by the duration of the obstruction, if the affected party notifies the other contracting party of the obstruction immediately after it becomes known or at the beginning of the performance period. If after the expiry of the performance period the obstruction with contracts with a performance period of less than one month exceeds 30 calendar days or with contracts with longer performance periods exceeds 45 calendar days, the contract is cancelled without mutual remuneration.

3. If the affected party refers to the impediment to performance, he must in this case produce relevant evidence upon the request of the other contracting party.

§ 10 Weight/Quantity

1. The weight determined at the agreed place of performance is decisive for determining the weight. If the place of departure is the place of performance and if the weight as not determined there, the weight determined at the point of delivery shall be decisive.
2. In the case of contracts with carriage paid at the destination the weight determined there is decisive. If the weight was not determined there, the weight determined at the place of departure shall be decisive.
3. Each party has the right to be present at the weight determination or to have himself represented.
4. The seller may go below or exceed the agreed weight quantity by up to 2%, if „about“ has been agreed up to 5%.
5. Partial deliveries or partial acceptances are permissible, however may not go below a minimum weight of 23.750 kg (weight = quantity x specific weight). Each partial delivery is valid as a separate contract.
6. If the parties have agreed on the contract quantity as volumes, the aforementioned regulations on the weight are correspondingly valid.

§ 11 Quality

1. If nothing is agreed on the quality of the traded goods, goods of a sound and fair marketable, medium-type quality.

2. If the goods are delivered in a truck tank with several compartments, each individual compartment must correspond to the contractual agreements.

§ 12

Purchase according to sample / Approval of sample / telquel

1. Upon selling according to sample the goods must on average correspond to the specifications, look and analysis data of the purchasing sample. § 11 paragraph 2 applies correspondingly.
2. Upon selling „on approval of sample“ it is to be agreed by when the buyer is to submit his decision. If the parties have not agreed on any date, a period of 5 business days is valid from the buyer receiving the sample.
3. If the buyer has not informed the seller of his decision within the agreed period resp. the period according to paragraph 2 sentence 2, the sample shall be regarded as rejected.
4. Upon a „telquel“ sale the buyer is obliged to take over the goods without attention being paid to the quality, providing the type of goods corresponds to the contractual description.

§ 13

Rights in the event of defects

1. If the delivered goods are of a condition contrary to the terms of the agreement, the purchase is entitled to the following rights taking into account the following individual regulations of his choice:
 - a) replacement
 - b) reduced value remuneration
 - c) damages according to statutory regulations
2. If the buyer wishes to exercise his right to a replacement, he must inform the seller of this by telex at the latest on the next business day after the complaint has been lodged.
3. The right to a replacement is not applicable if the goods cannot be returned in their original state.
4. Reduced value remuneration can only be demanded if the buyer has set the seller an appropriate grace period for the replacement by telex without any result. The deadline is expendable if the seller seriously and finally refuses the replacement delivery.

§ 14

Examining the goods - sampling

1. Sampling is incumbent on the buyer and must basically be performed at the place of performance.

2. If the place of dispatch is the place of performance, the seller must give the buyer the chance to grant representative sampling.
3. If sampling does not take place at the place of performance the buyer can have this done immediately after the goods reach the destination.
4. Sampling must be done in such a way that representative average samples can be prepared from each compartment of the transport container.

§ 15 Notice of defects

1. In the case of defects that are to be determined in a commercial sensory examination, the buyer must make a complaint immediately after the goods have been completely unloaded, however at the latest on the next business day by telex. This is also valid when the goods are taken over „ex works/warehouse“.
2. In the case of defects that cannot be determined in a commercial sensory examination, in particular in the case of deviations from agreed specifications, the buyer must hand over the samples immediately after the goods have been completely unloaded, however at the latest after 2 business days to a neutral expert with the purpose of examination. He must inform the seller by telex of the result of the examination at the latest on the next business day after acquiring the knowledge / receipt.
3. In the case of hidden defects the buyer must inform the seller of the complaint within a period of one business day after acquiring knowledge of the fault.
4. If the periods stated in the aforementioned three paragraphs are not observed, the goods are regarded as having been approved.

§ 16 Payment of the purchase price

1. In case the parties do not agree anything to the contrary, the payment of the purchase price must be made within 5 business days after invoice receipt by the buyer outgoing. If the payment is not made in accordance with the agreement, the buyer gets into payment default without a warning.
2. The buyer is not entitled to set off or retain the purchase amount, apart from if the seller ceases to make payments or there are facts on hand that are considered to be equal to ceasing payments.

Furthermore, the ban on set off or retention rights is not valid in the case of undisputed or judicially determined counter claims.

§ 17 Payment default

1. In the case of payment default the seller is entitled to sue for payment and to demand default interest at the statutory amount since the beginning of the default.
2. In the case of contracts allowing for several partial amounts to be delivered or contract rates, the following additionally applies: if a buyer gets into default with a payment, the seller is in this case only entitled to withdraw and/or damages in view of the still pending partial amounts or contract rates after he has set the buyer a grace period for payment of 5 business days without results.
3. The seller also has the right to withdraw and/or damages without warning if the buyer has got into payment default in over 2 cases within a contract.
4. If there are justified doubts about the buyer's solvency, the seller may also demand prepayments even if other payment terms were agreed.

§ 18 Other payment claims

Other payment claims are to be fulfilled within 5 business days after receipt of the invoices. After this period has expired without results, the authorized person can claim his demands and demand interest at the statutory rate.

§ 19 Suspension of payments

1. If a contractual party ceases payments or if there are facts on hand that can be put on a par with a suspension of payments, in this case the claims to contract performance expire, providing this has not been performed by both parties. Upon the suspension of payments or facts being on hand putting it on a par with a suspension of payments the claim to payment of the price difference resulting from the contract price and the daily price, that is to be mutually offset, shall replace the performance claims.
2. The determination of the daily price must be done observing the regulations in § 8 paragraph 4.

The valid key date is the business day following the suspension of payments becoming known or facts to be put on a par with this. The costs of the price determination shall be borne by the party who has got into payment difficulties.

§ 20

Title retention

1. The goods resp. documents remain the property of the seller up to the full payment of all claims, including future claims, by the seller on the buyer from the business connection. In the case of a running account the title retention is valid as a security for the respective balance claim.
2. Treating or processing the goods remaining the property of the seller is done for him as the manufacturer and according to his order without the seller acquiring liabilities from this. The seller is entitled to the property of the goods made new by being treated or processed without taking into account the time and degree of the treatment or processing. In the case of processing with other goods not belonging to the buyer the seller is entitled to the co-ownership of the new goods at a ratio of the value of the goods subject to retention to the other processed goods at the time of processing. In case the buyer, regardless of the aforementioned regulation, acquires the (co)-ownership of the seller's goods subject to retention by treating or processing, he shall transfer to the seller the (co)-ownership of the goods upon contract conclusion for the time of his acquisition and shall keep the goods safe for the seller. The buyer shall herewith assign possible claims for restitution against third-party owners to the seller. The goods are valid as goods subject to retention in the sense of these provisions.
3. If the goods delivered by the seller are mixed or combined with other goods, the buyer shall herewith transfer to the seller his ownership or co-ownership resp. co-ownership rights to the mixed assets or the new goods and shall keep them safe for the seller.
4. The buyer is entitled to sell the goods in the (co)-ownership of the seller in a proper business transaction against cash payment or under the retention of title. He is not permitted to pledge or chattel mortgage. All claims the buyer is entitled to from the resale, regardless of whether this is done before or after the processing, mixing, etc., including all ancillary rights as well as any claims for compensation against a credit insurance shall be assigned by the buyer to the seller upon contract conclusion. In case the seller is only the co-owner of the goods or the goods are sold by the buyer together with other goods not belonging to the seller – regardless of condition – at a total price, the assignment of the claim already taken place is only done at the amount at which the seller charged the buyer for the concerned part of the goods.

5. The buyer has the power to collect the claims to which the seller is entitled, which he acquired through the assignment, until revocation. Upon revocation this right – also in the case of insolvency – is transferred to the seller. Furthermore, the buyer must grant the seller access to the goods at any time as well as to mark the goods as his own property upon the seller's request and to issue the seller with all requested information. In the case of payment default the buyer has, upon the request of the seller, to notify the subrogation to the subsequent buyer. In case the buyer receives bills of exchange or cheques from the resale to a third party, he shall assign the bills of exchange or cheque claims to the seller at the amount of the claim assigned to him from the resale. The ownership of the bills of exchange or cheque deed will be transferred by the buyer to the seller; the buyer shall keep the deed for the seller.
6. In the case of accesses by third parties to goods owned or co-owned by the seller or to claims assigned to him, the buyer is obliged to protect his rights and to inform him of such accesses immediately by telex (§ 46).
7. As long as the seller's ownership of the delivered goods exists, these are to be sufficiently insured by the buyer against the usual risks. The claims arising from an event of damage, in particular against the insurance, shall herewith be assigned by the buyer to the seller to secure his claims up to the amount of his claim.
8. A possible excess of security collateral will be made available by the seller to the buyer upon his request. An excess of security collateral is on hand if the value of the securities exceeds the value of the claims to be secured by more than 20%.

§ 21
Applicable law

The contract is subject to German law. In addition the Incoterms of the International Chamber of Commerce valid upon contract conclusion shall apply. The agreement of the United Nations about contracts on the international purchase of goods dated 11th April 1980 (BGBl.(Federal Law Gazette) 1989, part 11, page 588 ff.) does not apply.

§ 22
Deadlines

1. Workdays are valid as business days with the exception of Saturdays as well as 24th and 31st December.
2. The day of contract conclusion and the day of receipt of a declaration with which a deadline is set are not included in the calculation of the period.
3. Declarations received on a business day after 3 pm are valid as having been received on the next business day.
4. Recognised public or national holidays which differ between the states only work in favour of the party who has to submit or receive a declaration on such a day resp. to perform an action.

§ 23
Notifications

The term „in writing“ includes telex correspondence as well as each type of quick written communication such as, e.g. telefax or email. The term „by telex“ includes each type of quick written communication, such as, e.g. telefax or email.

§ 24
Commission

The seller is obliged to pay the broker the agreed commission, regardless of whether the arranged contract is fulfilled or cancelled, apart from if it can be proven that the broker has a fault in the non-performance or the cancellation of the contract.

§ 25
Expiration of claims from contracts and limitation

1. A contract expires automatically if it has not been fulfilled by any of the parties within three months after the expiry of the performance period determined in the contract. If no performance time has been agreed, this period starts upon the conclusion of the contract.
2. If a warning is sent within the period stated in paragraph 1, the contractual claims initially continue to exist.
3. In this case the contractual rights are cancelled when a month has elapsed after the deadline stated in paragraph 1 has elapsed if none of the parties has asserted his contractual rights in writing.

4. Moreover, claims from contracts become statute-barred in one year. The limitation starts when the month in which the performance deadline ends has elapsed.

Hamburg, 1st April 2010