

General Conditions of Sale and Delivery of STEFES Ingredients GmbH

§ 1 General

- The following General Conditions of Sale and Delivery (hereafter referred to as Conditions) apply exclusively to all offers, deliveries and services provided to the customer. Furthermore, these Conditions apply to all future business transactions even when we do not make explicit reference to them.
- We do not accept any conditions of purchase drawn up by the customer which contradict the Conditions defined herein unless we have explicitly agreed to them, in writing, in advance. This also applies when we do not challenge such conditions explicitly. We will not recognize any conditions of purchase put forward by the customer unless we have explicitly agreed to them in writing in advance.
- We hereby object to any conditions of purchase drawn up by the customer which contradict the Conditions defined herein. Any guidelines drawn up by the customer which define the form which such an objection has to take do not affect the validity of the objection hereby made by us. If the customer's conditions of purchase contain a clause which generally rules out such an objection, such conditions will be replaced by the applicable provisions laid down by law.
- Our Conditions also apply when we make deliveries to, or carry out services for, the customer without reservation, although we are aware of the existence of contradictory conditions drawn up by the customer.
- All agreements made between us and the customer regarding deliveries and services have to be documented, in writing, in the respective contract and any additions to it.
- These Conditions only apply to companies, legal persons under public law and public institutions as defined by § 310, paragraph 1, of German Civil Code.
- All our offers are subject to change.
- No order may be regarded as accepted unless we have issued written confirmation. The content of such confirmations forms the explicit basis of the order. Any alterations or additions made to agreements have to be explicitly defined as such and have to be documented in writing in order to be valid. Verbal agreements will not be accepted. This also applies to alterations or additions made to the clause regarding the requirement of the written form itself, as well as to any verbal agreement made regarding the waiving the requirement of the written form. Verbal agreements only take effect once they have been documented in writing.
- When we make quotations within the framework of offers or pre-contractual correspondence, we only guarantee the conditions mentioned in such quotations and correspondence if they have been explicitly confirmed, in writing, in the form of an offer or other correspondence.

§ 2 Deliveries

- If no agreements have been made to the contrary, the agreed prices apply to deliveries made ex works in line with the current version of the Incoterms.
- Delivery periods and deadlines are always to be treated as approximate guidelines unless a fixed period or a fixed deadline has been explicitly agreed upon. If a customer is to provide us with raw materials or components required by us during processing, the agreed delivery period or deadline only becomes binding once all the materials have been received by our factory. This also applies information and documentation which has to be supplied by the customer.
- We are released from the general obligation to adhere to the agreed delivery periods and deadlines when the customer breaches its contractual duties in a way which makes it no longer reasonable to demand that we continue the work required to fulfil the contract.
- Partial deliveries and performance in successive instalments are permitted.
- In the case of manufactured products or products made to order, deliveries whose quantities exceed or fall below the required amount are permitted to the extent justifiable during normal trading activities. In the case of blanket orders, we are authorised to procure the material for the whole order and to produce the products required to fulfil the whole order immediately. For this reason, any alterations requested by the customer cannot be considered once the order has been placed, unless an explicit agreement to the contrary has been made in advance. This paragraph also applies when goods are procured from third parties.
- In cases of *force majeure* or other interruptions for which we are not responsible, whose continued existence cannot be altered by us without unreasonable expenditure, and whose continued existence considerably impedes our ability to fulfil our contractual requirements in whole or in part, i.e. plant interruption, government decrees, delay in the delivery of important raw materials or goods through the normal channels, disruptions in the electrical supply, strikes, as well as the delay in delivery of goods or services from our suppliers or subcontractors, the delivery periods and deadlines set by the customer for the goods and services to be provided by us will be extended appropriately. We will inform the customer immediately of any situation in which such circumstances arise and provide information on the expected duration of the interruption and the expected effect that such an interruption will have. If the circumstances lead to a situation in which delivery of our goods or services is delayed by more than 3 (three) months, or it can be assumed that the interruption will definitely last for more than 3 (three) months, both contract parties have the right to withdraw from the contract without having to pay any form of compensation to the other party. The customer's contractual or legal rights to withdraw from the contract are not affected in any way by this regulation.
- In all cases of delayed delivery, the customers is obligated to set us a suitable replacement delivery period of at least 2 (two) weeks.

§ 3 The rights of third parties

- The customer carries full responsibility for all violations of a third party's industrial property rights, copyrights, or competition rights caused by us as a result of the use of formulas or procedures provided to us by the customer, or through the use of materials procured by the customers from one of its suppliers, unless full or partial liability can be attributed to us as the result of negligence or intent. In such cases, the customer is obliged to release us from all demands and claims made against us by third parties as the result of any violation of the aforementioned right caused by such activities.
- If we fail to procure certain products from suppliers named by the customer within the framework of an order, or if we fail to manufacture a contractual product in line with the specifications or formulas provided by the customer, and, as a result, we carry full responsibility for the violation mentioned in point 1, the following rules apply:
If claims are made against our customer or, in turn, its customer, as the result of any violation of copyrights, trademarks, patents or similar rights and we are responsible for the said violation, we have to be notified of the situation immediately. All further actions have to be discussed with us in advance. The initiation of any legal proceedings is to be left to us upon our request. Our customer, or his customer, is obliged to provide us with as much support as possible during our defence. Claims for compensation arising from such circumstances are limited to the purchasing price of the respective goods.
- The aforementioned regulations only apply for deliveries made within the Federal Republic of Germany. It is the customer's responsibility to check whether any deliveries destined for foreign countries do not violate the industrial property rights of third parties.

§ 4 Transferral of risk

- Any risk connected to the deterioration and/or destruction of the goods (performance risk) will be passed on to the customer in line with the provisions agreed in the Incoterms. In cases where delivery is delayed or made impossible for reasons beyond our control, the performance risk will pass to the customer when we declare our readiness to commence delivery. Furthermore, we are not liable for any deterioration and/or destruction of goods if the delay in transportation is caused by reasons for which we are not responsible. In such cases, and in situations where storage periods expire, we reserve the right to charge the customer a storage fee, the level of which will be discussed with the customer in advance. The same applies when the delivery is postponed by the customer. Furthermore, we reserve the right to use the goods in storage for other purposes upon expiry of a suitable extension of the storage period and to demand compensation from the customer for failure to fulfil contractual obligations.
- The cost of any deliveries of materials, labels, packaging etc. made by the customer have to be borne by the customers themselves, as does any risk relating to such deliveries. Insurance against damage during transportation will only be taken out when written request to this effect is received from the customer. The costs of this insurance will be billed separately. If goods are not accepted by the customer punctually for reasons not attributable to us, we reserve the right to store and insure the goods at the customer's expense.

§ 5 Guarantee and liability

- Any claims for compensation made by the customer, for whatever legal reason, are not permitted, unless the damage caused can be traced back to intent or gross negligence on our part, or the damage incurred represents a violation of major contractual duties. If we are responsible for the damage incurred as a result of a slight error made on our part, the level of compensation is limited to levels typical for such contracts and to foreseeable damages covered by our insurance. Any claims which exceed this level are not permissible. In situations in which our staff or assistants who have not been assigned specific tasks can be said to have caused damage as a result of gross negligence, whereby the damage cannot be said represent a violation of any major contractual duties, our liability is limited to levels typical for such contracts and to foreseeable damages covered by our insurance. The limitations of damage mentioned here do not apply to compensation claims made due to the absence of product or service features which we explicitly agreed to provide, nor do they apply to any liability resulting from product liability law.
- The customer is responsible for ensuring that the valid and well-known safety provisions have been adhered to and the appropriate safety precautions have been taken, regardless of whether he plans to make personal use of the product delivered by us or to sell it on to another customer. If any ambiguities arise in this respect, or the impression is given that the information provided by us regarding safety precautions was inaccurate or incomplete, the customer is obligated to inform us of this fact in writing immediately and then, if the possibility of damage or danger occurring exists, is bound to await our further instructions.

- We carry no responsibility for technical information provided free of charge during the exchange of business correspondence or for free advice provided in any other capacity.
- When no immediate danger exists, all recall actions have to be cleared with us in advance. Furthermore, any deficiencies have to be reported to us even when the customer is not faced with claims for compensation or does not intend to make claims against us. If the customer fails to inform us of the existence of any deficiency, he loses the right to refer to this deficiency within the framework of later contracts and their fulfillment.
- The aforementioned provisions also apply in favour of our staff and assistants.
- The customer is obliged to carefully check all goods delivered by us immediately following their receipt. Goods will be deemed to have been accepted when no notification of deficiency is made within 10 (ten) working days following the receipt of the goods or, if the deficiency was not apparent despite immediate and careful examination of the goods, within 10 (ten) working days following discovery of the deficiency. In all cases, written notification of any deficiencies has to be made to us within 6 (six) months following delivery. This period (in which examination of the goods has to take place and any deficiencies have to be reported) also applies when delivery of the goods is postponed at the customer's request. In all cases, the period in which examination of the goods has to take place and any deficiencies have to be reported commences with our declaration of readiness to deliver the goods.
- We carry no responsibility for any deficiencies in any products which were procured from specific suppliers in line with our customer's instructions, or for any subsequent damages which arise from such deficiencies. In such cases we will transfer our right to complain and our right to receive compensation from the supplier to our customer.
- When the delivered goods are deficient, or do not possess the agreed features, we can, at our discretion, either request that the deficient product be sent to us for repair, or be returned to us at our expense, in which case it will be exchanged and sent back to the customer. Alternatively we can request that the customer holds the deficient product for us so that repair or exchange can take place on the customer's premises either by us or by a person designated by us. The customer has the right to request the latter option when the process of returning the deficient product to us would require unreasonable expenditure.
- The customer only has the right to claim for compensation in line with the provisions set out in § 5. We are not responsible for any complaints and damage which arise from any deficiencies in materials or packaging provided by our customers.
- Variations in filling quantities of up to -3% (minus three percent) are acceptable. Such variations are to be deemed contractually acceptable and may not form the basis of any complaints.
- The transferral of any rights to claim damages or any guarantee rights to third parties requires our explicit written authorisation in advance. Any transferral which takes place without our consent is invalid and will not be recognised by us.

§ 6 Payments

- All payments are to be made in accordance with the agreements made and without deduction. The customer only has the right to offset payments against other invoices or to withhold payment when the counterclaims made by him are not challenged or have been legally affirmed. If the customer defaults on any payment, we reserve the right to charge interest on arrears to the sum of 8% (eight percentage points) above the respective base interest rate per annum (§§ 247, 288 paragraph 2, German Civil Code). We also reserve the right to claim further compensation.
- We also reserve the right to offset customer payments against his old debts, even in situations where the customer has drawn up regulations to the contrary. If costs and interest have already been incurred, we have the right to add the payment first to the costs, then the interest, and finally the principal supply.

§ 7 Retention of ownership rights

- Until all outstanding debt claims have been settled, including all current and future requests to balance payment, we will be guaranteeing the following securities. These will be released to us as required when their value exceeds 20% of the value of the debts outstanding for a sustained period of time:
 - The goods remain our property until all the aforementioned debt claims have been settled. The customer is authorised to process the delivery item within the framework of normal business, and to sell it, as long as he has fulfilled all his contractual duties to us. The pledging of goods or transferral of goods as security is not permitted. The customer hereby transfers any debt claim which arises from the further sale or for any other legal reason (insurance, illegal actions) to us in its entirety. If the customer does not fulfil his payment obligations, or fails to fulfil them on time, he is then obliged, upon our request, to disclose any transferral and to make available all the information and documents we will need to make and pursue our claims.
 - If the delivery item is connected to or mixed with other objects, the customer has to transfer ownership of the newly-manufactured object to us - unless we are not already the legal owner or partial owner of the new object as a result of our ownership of a component part of it - and will store this object for us with the diligence and care of a prudent businessman. Our ownership of such objects only extends to the value of the delivery item.
 - In situations where we process goods ordered by our customer, it is hereby agreed that we will also be granted partial ownership of the end product even when the value of the processing work carried out is low in relation to the value of the end product. In such situations, we obtain a level of ownership which corresponds to the value of the processing work carried out on the materials provided by our customer.
 - If the customer breaches our contract in any way, especially in cases of delayed payment, we have the right to retrieve the delivery item at the customer's expense or to demand transferral of the customer's right to deliver to third parties. Our retrieval or impounding of the delivery item does not constitute withdrawal from the contract.
- If the contractual object has to be protected in accordance with applicable laws (i.e. Patent Law, Copyright Law, the Law on Utility Models, or the Registered Designs Act), regardless of whether it is an individual product, forms a majority part of a product, or a complete system solution, we will transfer the contractually-limited rights connected to this product to the customer, allowing him to use or sell the product in the usual and proper manner. Any further rights have to be documented (in writing) in individual contracts in order to be valid.

§ 8 Miscellaneous

- All legal relationships which exist between us and our customer are based exclusively on German law. The provisions made for the conflict of laws as well as the UN Law on the International Sale of Goods are excluded.
- The place of performance for all the customer's obligations, including payment obligations, is Hamburg, unless otherwise specified in these Conditions or in any other written agreement. This also applies to cheques and bills payable.
- The contract parties will endeavour to resolve all disputes which arise from the application or interpretation of the regulations set out herein and/or any disputes connected to them in any way, amicably.
- If the dispute cannot be resolved to the satisfaction of both parties, the selected arbitration tribunal (IHK) is Hamburg. The pursuance of normal legal channels is not excluded. In particular, a court of law may, upon the request of one of the contract parties, order a temporary or securing measure regarding the disputed object, either before or during the tribunal's proceedings.
- The jurisdiction for all disputes which arise directly or indirectly from the business relationship and cannot be resolved by the arbitration tribunal is Hamburg. We also reserve the right to initiate legal proceedings in other courts of law in accordance with the Code of Civil Procedure (ZPO) or to take legal action against the customer at his place of jurisdiction (legal domicile).
- With regard to customers located abroad, it is hereby agreed that we reserve the right, at our discretion, to call the court whose jurisdiction covers the customer's legal domicile, or, if proceedings in a court of law are not allowed, to request that proceedings be initiated in a tribunal at the International Chamber of Commerce in Paris in order to deal with all claims arising from the business relationship. The location of tribunal proceedings is Hamburg. The provisions set out in German procedural law have to be applied along with the rules of procedure adopted by the International Chamber of Commerce in Paris.
- We are authorised to transfer the rights and duties arising from this business relationship to affiliated companies as defined by § 15 ff. of Company Law, in which we have at least a 50% holding. The concept "affiliated company" also includes those companies which belong to companies in which we have a majority holding, whether directly or indirectly - i.e. daughter, sister or parent companies.
- If any of the individual provisions set out in these Conditions, or any of the individual provisions set out in any other agreement, be or become incomplete, invalid or inapplicable, either wholly or in part, the validity of the other provisions remains intact.
- The contract parties are obliged to replace any incomplete, invalid or inapplicable provisions contained in these Conditions with provisions that come as close to the intended economic purpose and original meaning as possible. The replacement provisions have to take the form which would have been agreed upon by the contract parties from the outset had they been aware of the incompleteness, invalidity or inapplicability of the said Conditions or other agreements.
- If complete, valid, and applicable provisions are not (or cannot be) agreed upon, the legal regulations apply.

Note on § 33 of the German Federal Data Protection Act (BDSG): We hereby declare that personal data on our customers and business partnerships will be held and processed electronically. Both federal and state laws regarding data protection will be adhered to.