

General terms and conditions of business
Kräutermühle GmbH, 99625 Kölleda

As of 01.06.2016

Preamble

The following contractual terms and conditions shall apply to all business transactions with principals (hereinafter referred to as Customer). These shall apply exclusively. Terms and conditions of the Customers which conflict with or deviate from these shall only apply if such terms and conditions have been expressly agreed by us in writing. No oral ancillary agreements have been concluded.

§ 1 Order

The parameters set at the time of issuing of the engagement are approximate values.

Should the goods to be provided be made available by the Customer or by a third party engaged by it, quality defects in respect of the said goods shall be borne by the Customer. Should major defects from the agreed parameters exist following the processing due to this defective quality of the unprocessed goods, these shall be borne by the Customer.

§ 2 Prices and payment

1. The prices are purely net from our premises at Manfred-von-Ardenne-Str. 1, 99625 Kölleda. The costs of delivery shall be borne by the Customer. No discounts will be granted. The minimum order value is 100 €. In case of orders under 100 €, a small quantity surcharge will be applied.
2. Cheques and bills of exchange will not be deemed to represent payment until these have been redeemed. Bills of exchange and bills of acceptance will only be accepted if this was agreed at the time of conclusion of the contract and then only on account of payment without any entitlement to a discount deduction. All expenses incurred in this respect shall be borne by the Customer. These shall be charged in accordance with the rates of our house bank.

§ 3 Price alterations

Price alterations shall be permissible, if a period of more than 6 weeks exists between the time of conclusion of the contract and the agreed delivery date. Should the collective wages, cost prices, value added tax or the charges for official duties and permits subsequently increase, then we shall be entitled to reasonably increase the price in accordance with the cost increases. The Customer shall only be entitled to rescind the contract if the price increase between the time of ordering and the time of delivery exceeds 10% of the order value.

§ 4 Due date and payment default

The invoice will be issued on the day of delivery or provision of the goods. The invoice shall be payable and due 10 days after the date of issue. Should the Customer enter payment default, we shall be entitled to charge default interest to the amount of 9% above the respective base rate of interest in accordance with § 247 of the German Civil Code (BGB). The assertion of further default and interest claims shall remain unaffected thereby. Fixed warning fees of € 5.00 shall be charged for warnings, with the exception of the first.

§ 5 Set off and rights of retention

The Customer shall only have a right to set off if its claim is undisputed or has been recognised by a court. The Customer shall only be entitled to exercise a right of retention if its counter-claim refers to the same contractual relationship.

§ 6 Delivery

1. Delivery deadlines

Binding delivery deadlines shall be stated as such and fixed in writing. Such a delivery deadline shall commence at the time of sending of the order confirmation, however not prior to the provision of any raw goods, documents, permits, or approvals, in particular certificates which the Customer is responsible for making available. Such binding delivery deadlines shall be subject to proper and timely supply to us by the Customer or third parties.

The delivery deadline shall have been complied with if, prior to its expiry, the readiness for dispatch has been notified or the object of delivery has left our production facilities. Partial deliveries shall be permitted within the delivery deadlines stated by us, provided that these do not negatively impact on use.

Should we exceed a non-binding delivery deadline for reasons for which we are responsible, the Customer shall have the right to demand that we provide performance with the setting of a 14 day deadline. In case of unforeseeable events which are beyond our control (such as labour disputes, in particular strikes and blockades, operational disruptions, delays in the delivery of essential raw materials), the delivery deadline shall be extended by the duration of such occurrences. The start and end of such hindrances shall be notified to the Customer as soon as possible. Should the disruption lead to a delivery postponement of more than 4 months, the Customer shall be able to rescind the contract.

2. Scope of delivery

The scope of delivery shall be determined by means of our written order confirmation. Shrinkages in mass of 3 to 5 % compared to the non-processed net weight (tare weight) which occur during the process are common and shall not represent a shortfall.

§ 7 Cancellation charges / fixed damages

Should the Customer rescind an issued order without good reason, then regardless of the option of asserting higher actual losses, we shall be able to claim 20% of the contractually agreed remuneration for the costs incurred due to the processing of the order and the lost profit. The Customer shall reserve the right to provide proof of lower losses.

§ 8 Packaging and shipping

The shipping/ delivery shall take place ex factory at Manfred-von-Ardenne-Str. 1, 99625 Kölleda at the expense and risk of the Customer, unless expressly agreed otherwise. Packaging shall become the property of the Customer and shall be charged for by us. The choice of shipping and type of delivery shall take place according to our discretion. Should the Customer so request, the goods will be insured for delivery/shipping at the expense of the Customer. The insurance premium shall be due and payable immediately.

§ 9 Acceptance and transfer of risk

1. The Customer shall be obliged to accept the object of delivery within 3 days, unless it is temporarily prevented from performing acceptance for reasons for which it is not responsible. Following the expiry of the above-mentioned deadline, the risk of possible destruction or deterioration shall be transferred to the Customer. The Customer shall be entitled to inspect the object of delivery within 3 days of receipt of the completeness notification at the handover location. Should the Customer not inspect the goods within the above-mentioned deadline, any results of subsequent quality checks which deviate from our quality inspection shall be borne by the Customer.
2. Should the Customer intentionally or gross negligently remain in acceptance default in relation to the goods for more than 14 days following the notification of completeness, then following the setting of a period of grace of another 10 days, we shall be entitled to rescind the contract and bring a damages claim. In case of a serious and final acceptance refusal, the Seller shall have the right to sell the goods elsewhere on behalf of the Customer and to assert any losses in revenues against the Customer. Further damages claims shall remain unaffected thereby.
3. Should the Customer declare that it will not accept the goods, the risk of possible destruction or deterioration of the goods shall be transferred to the Buyer at the time of refusal. Should the goods be shipped to the Customer at its request, the risk of possible destruction or deterioration of the goods shall be transferred to the Customer at the time of dispatch. This shall apply regardless of whether the goods are shipped from the place of performance or who bears the shipping or delivery costs.

§ 10 Reservation of ownership

1. We shall reserve the ownership in respect of the goods until full payment, including of all ancillary claims.
2. In case of behaviour on the part of the Customer which is in breach of contract, in particular in case of payment default, we shall be entitled to demand return of the goods following a warning and the Customer shall be obliged to surrender these.
3. During the time of reservation of ownership, the Customer must insure the goods at its own expense against fire and theft, water damage and third party damage. On request, the Customer must provide us with proof of insurance.

§ 11 Extended reservation of ownership

1. The reservation of ownership shall continue to apply to all claims which we acquire against the Customer in connection with the delivered goods, as well as to claims under further ongoing business relationships with the Customer.
2. The Customer shall be able to request that we forego the extended reservation of ownership should the purchase price have been settled in full and should sufficient security exist for the remaining liabilities.

§ 12 Prolonged reservation of ownership

1. The Customer shall be entitled to sell on the delivered goods in the course of ordinary business dealings; however it hereby now assigns to us all claims to the amount of the contractual price agreed between us and the Customer (including value added tax) which the Customer acquires in connection with the resale and regardless of whether the delivered goods are resold with or without processing. The Customer is authorised to collect this claim on the basis of an accepted assignment. Our authority to collect the claim ourselves shall remain unaffected thereby. However we shall be obliged not to collect the claims should the Customer properly comply with its payment obligations and not be in payment default. However should this be in fact the case, we shall be able to request that the Customer provides notification concerning the assigned claims and their debtors, provides all necessary information for the collection, hands over the respective documents and notifies the debtors (third parties) of the assignment.
2. The processing or alteration of the goods by the Customer shall always be carried out for us. Should the objects of delivery be processed with other items which do not belong to us, we shall acquire the co-ownership in the new item to the value of the object of delivery in relation to the other processed objects at the time of the processing.
3. Should the objects of delivery be directly mixed with other items which do not belong to us, we shall acquire the co-ownership in the new item to the value of the object of delivery in relation to the other mixed objects. The Customer shall store the co-ownership for us.

§ 13 Liability

1. We shall only incur liability for losses which do not relate to body, life and health in case of intent and gross negligence. This shall not apply to claims in tort.
2. In case of a simply negligent breach of a principal performance obligation, we shall only incur liability for the losses to be expected according to the normal course of events. Liability for extraordinary losses of consequential losses connected to defects shall be excluded.

§ 14 Liability for material defects

1. Despite proper storage, the goods are subject to changes connected to storage (for example loss of aesthetic oils, formation of new germs). Should these exist within the framework of what is typical for the goods, these shall not represent a material defect.
2. The liability for material defects is limited for a period of 1 year.

§ 15 Place of performance and place of jurisdiction

1. The place of performance shall be our place of business at Manfred-von-Ardenne-Str. 1, 99625 Kölleda.
2. The place of jurisdiction shall be Sömmerda Local Court (Amtsgericht) or Erfurt Regional Court (Landgericht), chamber for commercial matters. We shall also be entitled to bring a lawsuit at the principal place of business of the Customer.

§ 16 Other

Should one of the provisions of these general terms and conditions of business be ineffective, the remaining clauses shall remain unaffected thereby.