KRAEGE
INTERNATIONAL

General Terms and Conditions of Sale

§ 1 General Scope

(1) Our Terms and Conditions of Sale shall apply exclusively; we do not recognize any terms and conditions of the customer that conflict with or deviate from our Terms and Conditions of Sale unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Sale shall also apply if we carry out the delivery to the customer without reservation and knowing that the customer's terms and conditions conflict with or deviate from our Terms and Conditions of Sale.

(2) All agreements made between us and the customer for the purpose of executing this contract are set out in writing in this contract.

(3) Our offer is subject to change unless otherwise stated in the order confirmation.

§ 2 Prices – Payment Terms

(1) Unless otherwise stated in the order confirmation, our prices are „ex place of production" and excluding packaging, which will be invoiced separately.

(2) Statutory VAT is not included in our prices; it will be shown separately on the invoice at the statutory rate on the day of invoicing.

(3) Checks shall only be accepted on account of performance. The purchase price claim shall only be deemed to have been fulfilled after final account credit. The timeliness of a payment shall be determined by the receipt of the money in our account.

(4) Any discount deduction requires a special written agreement.

(5) Unless otherwise stated in the order confirmation, the net purchase price (without deductions) is due for payment within 14 days of the invoice date. If the customer is in default of payment, we shall be entitled to charge interest at a rate of 8 percentage points above the base interest rate (ECB) per annum. The seller may demand higher interest on other legal grounds. We reserve the right to claim a higher interest rate on other legal grounds.

(6) The customer shall only be entitled to set-off rights if its counterclaims have been legally established, are undisputed or have been recognized by us. In addition, the customer shall be authorized to exercise a right of retention insofar as its counterclaim is based on the same contractual relationship.

§ 3 Delivery, Passing of Risk – Cost of Packaging

(1) Unless otherwise stated in the order confirmation, the delivery shall be "ex place of production". The goods shall be dispatched with the effect, at the expense and risk of the customer.

(2) Transport packaging and all other packaging shall not be taken back. The customer is obliged to dispose of the packaging at its own expense.

§ 4 Reservation of the Right of Withdrawal

Should the Kraege company be unable to deliver the agreed quantities for reasons for which it is not responsible, it shall be entitled to withdraw from the delivery obligation in whole or in part.

Reasons for such non-fulfilment are e.g.:

weather-related harvesting restrictions

weather-related plant failure

disease-related plant failure

§ 5 Warranty for Defects

(1) The customer's warranty rights shall be subject to the condition that, after receipt of the goods at the customer's site or at a place of delivery specified by the customer, the customer shall immediately (at the latest within 7 days) in the case of obvious defects and immediately after discovery (at the latest within 6 months) in the case of hidden defects, make a written complaint.

(2) In case of a defect in the purchased item for which we are responsible, we are entitled to make a replacement delivery.

(3) If the replacement delivery fails, the customer shall be entitled, at its discretion, to demand rescission of the contract (cancellation) or a corresponding reduction of the purchase price (abatement). If the purchased item lacks a warranted product feature, we shall be liable for damages for non-fulfilment in accordance with the statutory provisions.

(4) Unless otherwise stated below, any further claims by the customer, regardless of the legal grounds, shall be excluded. Therefore, we shall not be liable for damages that have not occurred to the delivery item itself, nor for consequential damages; and in particular we are not liable for loss of profit or other financial losses of the customer.

§ 6 Liability

(1) Any liability for damages caused by slight negligence on the part of the Kraege company, its legal representatives or its vicarious agents shall be excluded, unless the liability is for damages resulting from injury to life, body, or health.

(2) The mandatory provisions of the Product Liability Act (Produkthaftungsgesetz) remain unaffected.

§ 7 Retention of Title

(1) We reserve title to the purchased item until all payments arising from the delivery contract have been received. In the event of breach of contract by the customer, in particular in case of default of payment, we shall be entitled to take back the purchased item. If we take back the purchased item, this shall not constitute a withdrawal from the contract unless we have expressly declared this in writing. The seizure of the purchased item by us shall always constitute a withdrawal from the contract. After taking back the purchased item, we shall be authorised to use and/or exploit it; and the proceeds from such exploitation less reasonable exploitation costs shall be offset against the customer's liabilities.

(2) The retention of title shall also extend to the full value of any products resulting from the processing, mixing, or combining of our goods. If, in the event of processing, mixing or combination with goods of third parties, their right of ownership remains in force, we shall acquire a co-ownership in proportion to the invoice values of these processed goods.

(3) In the event of any seizure or other intervention by third parties, the customer shall inform us immediately in writing so that we can file a suit in accordance with section 771 ZPO (German Code of Civil Procedure). If the third party is not able to reimburse us for the judicial and extrajudicial costs of an action pursuant to section 771 ZPO, the customer shall be liable for the loss incurred by us.

(4) The customer shall be entitled to resell the purchased item in the ordinary course of business; however, the customer hereby assigns to us all claims in the amount of the invoice amount (including VAT) claimed by us which accrue to it against its customers or third parties from the resale, irrespective of whether the purchased item has been sold without or after any processing. The customer shall remain authorised to collect this claim even after the assignment. Our authorisation to collect the claim ourselves remains unaffected thereby. However, we undertake not to collect the claim as long as the customer fulfils its payment obligations from the proceeds received, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed and payments have not been suspended. If this is the case, however, we are entitled to demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, delivers the relevant documents and notifies the debtor (third party) of the assignment.

(5) We undertake to release the securities to which we are entitled at the request of the customer to the extent that the realisable value of our securities exceeds the claim to be secured by more than 10%; and we shall be responsible for selecting the securities to be released.

§ 8 Protection of Varieties

In the case of plants of varieties for which the variety trademark holder has the sole right of exploitation, the customer is obliged to respect the protected rights of the variety trademark holder. The customer undertakes towards each owner of such a variety to comply with the following binding instruction: „It is not permitted to offer, sell, give away or otherwise make available to any other person plants or parts of plants suitable for the production of plants – neither under the protected name nor under any other designation. Furthermore, the protected name shall not be used to designate plants and plant parts of other varieties and species." Exceptions to this rule require the prior written consent of the protected holder.

§ 9 Jurisdiction – Place of Fulfilment

(1) In case the customer moves its domicile or usual place of residence to a country other than the Federal Republic of Germany after conclusion of the contract, the place of jurisdiction is our registered office. This shall also apply if the domicile or usual residence of the customer is not known at the time the action is filed.

(2) Our offer is subject to change unless otherwise stated in the order confirmation.

(3) For all disputes arising from the business relationship, regardless of their nature, including disputes arising from cheques or bills of exchange, the local court of Warendorf is agreed as the place of jurisdiction.

The German law shall apply to each dispute.