

# General Terms and Conditions of Sales and Delivery of VERBIO Vereinigte BioEnergie AG

Effective as of June 2020

## 1. Scope of application

- (a) All our deliveries and services from current and future business transactions are exclusively regulated by the following terms and conditions. We do not accept any deviating conditions of the client unless we have expressly agreed to them in writing. Our conditions also apply if we execute the delivery to the client without reserve being aware of conditions of the client contradictory to or deviating from our conditions.
- (b) All the agreements made between us and the client for the execution of this contract are fixed in writing in this contract.
- (c) Our general conditions of sales only apply to companies within the meaning of §310 (1) BGB (German Civil Code).

## 2. Quality and volumes

- (a) Information on our products are only approximate and indicative; they do not represent a guaranteed quality, unless the guarantee is given explicitly in writing. The same applies to the durability of the products.
- (b) For the determination of volume, the quantity assessed in the dispatch point by weighing or measuring is authoritative. For deliveries in tank trucks, the quantity indicated by the measuring equipment or the weighing note of the dispatch point is authoritative.
- (c) For bioethanol, the standard density of 0.789 (L20°C) is used for the conversion from (t) to (cbm). For biodiesel, the standard density of 0.883 (L15°C) is used for the conversion from (t) to (cbm).
- (d) The products are sold free from any rights from a CO<sub>2</sub> certification. The rights from a CO<sub>2</sub> certification remain with the seller even after the sale and delivery of the products.

## 3. Risk transfer

- (a) The Incoterms in force at the time of conclusion of the contract in their respective valid version are to be applied. If nothing else is indicated in the order confirmation, delivery "ex works" is agreed.
- (b) The shipping ex works or distribution center occurs at the expense of the buyer. The way and method of shipment are fixed by us. Only in case of an explicit written instruction of the buyer are we obliged to take out a transport insurance; the buyer bears the costs of such an insurance.
- (c) Shipment is made to the best of our knowledge excluding any liability on our part. In particular we assume no responsibility for changes or deterioration of the products during transport or due to inappropriate storage.
- (d) The risk is transferred to the buyer as soon as the products have left the factory or the delivery center, even if we assume further services like e.g. free shipment, transport or similar services. If we have indicated to the buyer that the products are ready for dispatch or collection, the risk is transferred to the buyer if he does not call or collect the products and if we have set him an appropriate deadline for that without success.

## 4. Delivery time

- (a) In principle, our delivery times are only approximate and unbinding. Agreements on a binding delivery time must be explicitly made in writing. If we cannot deliver on time, we will inform the buyer immediately.
- (b) Binding delivery times are fixed dates. If the buyer does not accept the products at the binding delivery time, we have the right to withdraw from the contract without to be obliged to set a deadline for subsequent performance.
- (c) If our delivery is delayed for reasons we are responsible for and the buyer has set us an appropriate additional deadline without success, he can withdraw from the contract. Claims for damages of the buyer for breach of duty are excluded, unless we or our agents have acted with gross negligence or willful misconduct. As far as the delivery delay is not caused by a willful breach of contract which we are responsible for, our liability for damages is limited to the foreseeable typically incurred damage.
- (d) Unexpected events outside our responsibility (as e.g. energy shortages, delays in the supply of essential components and other materials, crop failures, operational and traffic disruptions, strikes or strike-like situations, lock-outs, mobilization (military), war, civil war, blockades, riots, demonstrations, factory occupations, sabotage, go-slows, official measures or interventions by domestic or foreign agencies, such as export or import restrictions or bans, confiscations, embargos, impediments as a result of explosions, fire, total or partial destruction of factory facilities or warehouses, machines and machine parts; shortage of employees as well as product-related declines/restrictions in sales an logistics due to epidemics/pandemics, Force Majeure and the like) lead to an appropriate prolongation of delivery times. If we still cannot deliver after an appropriate prolongation, the buyer and we have the right to withdraw from the contract or, in the case of installment deliveries, to terminate the contract. Claims for damages of the buyer are excluded. If we withdraw from or terminate the contract, we will immediately reimburse all deposits or advance payments to the buyer, if these exceed the value of the partial deliveries already made.

## 5. Prices

- (a) As far as nothing else is agreed, the prices are "ex works" excluding sales tax and energy tax, customs duties and clearance fees. Unloading and other freight-related costs must be borne by the buyer even in the case of free delivery.
- (b) In the case of transport by ship, any surcharges for high or low water, ice drift or other conditions outside the influence of the seller must be borne by the buyer. This also applies to extra demurrage fees caused by exceeding the required unloading times. In the case of forwarding by rail, stall fees due to delays in unloading must be borne by the buyer. Steam for unloading purposes and the necessary equipment for unloading the cargo must be made available by the buyer at his own expense.
- (c) If the transport or other costs (e.g. storage and handling costs, tolls or road fees) increase after the conclusion of the contract or if the products are charged with additional or higher taxes or duties or if the purchase costs for the seller increase due to governmental measures, the price is increased correspondingly.

## 6. Breach of duty due to defects/liability

- (a) The buyer must examine the products immediately after reception. Visible defects must be reported to us in writing immediately, but at the latest three business days after arrival of the products. The products subject to complaints must be made available to the seller for inspection in the condition they were in at the time of detection of the defect, in particular unmixing. If this is not done, the products are considered as accepted.
- (b) Our liability refers to products free from any defects according to the technical state of the art. In case of a defect, the seller has the choice between rework and replacement. If the supplementary performance fails, the buyer can, in principle, demand, at his choice, a reduction of the purchase price or withdraw from the contract. However, in the case of minor defects, the buyer does not have a right of withdrawal.
- (c) We assume liability according to the legal provisions insofar as the buyer claims damages on the basis of willful misconduct or gross negligence, including willful misconduct or gross negligence of our representatives or agents. As far as we are not blamed for willful breach of contract, the liability for damages is limited to the foreseeable typically incurred damage. We assume liability according to the legal provisions insofar as we culpably violate a material contractual obligation; Material contractual obligations are such obligations that protect material contractual legal positions which the contract is meant to grant according to its content and purpose. Furthermore material contractual provisions are such obligations the fulfillment of which is essential for due implementation of the contract and on which the parties can reasonably expect to be able to rely. In that case, however, the liability for damages is limited to the foreseeable typically incurred damage.
- (d) The liability for culpable injury of life, body or health remains unaffected; this also applies to the mandatory liability according to the Product Liability Act.
- (e) As far as nothing else is provided above, the liability is excluded.
- (f) In case of a complaint, the buyer has to respect our rights vis-à-vis the transporters (e.g. forwarders) and immediately take the necessary measures for the preservation of evidence.
- (g) The limitation period for claims for defects is twelve months from the time of the risk transfer.

## 7. Tax guarantee – Representation of the buyer

- (a) The buyer gives us the irrevocable guarantee that he and his clients do not violate any fiscal and/or disposal provisions which have to be respected in the course of the delivery of tax-free or tax-privileged products within the delivery upon permit of the buyer or upon general permission.
- (b) In the case of a delivery exempt from VAT (collection case) in all places of loading of the EU, the buyer guarantees and confirms to us that the object of delivery will be brought to another member state than that of the place of loading.
- (c) In the event of a warranty, the buyer agrees to keep us completely free from all claims by third parties, in particular from all induced taxes, customs and other duties and tax penalties which might be incurred due to the use of legal remedies by him in this context upon his first demand.
- (d) Non-tax paid deliveries do just take place after separate registration. Billing takes place separately. The buyer is liable for any kind of occurring damages if the required certificates for a delivery under suspension of tax are not received by us in time.

## 8. Packaging/Transport

- (a) The buyer is liable for all enclosures lent or hired out (e.g. tank wagons) until their restitution to the return address indicated by the seller. The enclosures may only be used for keeping the products delivered by us.
- (b) The buyer is obliged to empty the enclosures immediately and to send them back to the indicated address at no freight or cost. Unless expressly agreed otherwise in writing, the rent for tank wagons is calculated from the day of filling until the return of the wagons to the prescribed receiving station at the corresponding daily rates.
- (c) If a transport forth and back without rent has been agreed, the buyer must, if he has exceeded the return period, pay the corresponding customary daily rates.
- (d) In the case of incomplete emptying, no remuneration is provided for remaining product volumes, the buyer must bear the costs of emptying and cleaning.
- (e) In the case of a delivery in the buyer's enclosure, we are not obliged to check it for suitability and cleanliness. Pollutions caused by impure enclosures are at the expense of the buyer. We, however, reserves the right to reject impure enclosures and refuse loading.
- (f) Within the scope of collection of the products by buyer, the buyer guarantees that only vehicles with sufficient transport insurance are used. The buyer shall ensure that all technical requirements necessary for the transport and proper and smooth loading and unloading of the relevant products are met by the vehicle. In this context we refer to the requirements of DGUV Vorschrift 70 - Fahrzeuge (formerly: BGV D29). Liability on our part for defective or faulty technical equipment is excluded. Fatty acid methyl ester (FAME, biodiesel), glycerin, biodiesel distillation residue, crude oil and fatty acid are subject to additional requirements for trucks: Safety railings, loading only possible from above via dome cover. The current "Matrix of specific requirements with regard to truck and tank car transports" of us applies. If the transported goods are dangerous goods, the buyer guarantees compliance with the corresponding dangerous goods regulations, in particular GGVSee, GGVSEB, ADR.

## 9. Payments

- (a) As far as nothing else is provided in the order confirmation, the net purchase price is due (without deductions) within 10 days after the invoice date. The legal provisions for the consequences of delay of payment apply.
- (b) We only accept payments to the bank account officially announced by us as the permissible payment method. It is the responsibility of the buyer to verify these bank details of us in consultation with us. We will always inform the buyer about changes of bank details by official letters and expect also in this case a corresponding verification. Deviating information on bank account details on invoices are invalid without the aforementioned announcements.
- (c) On the due date, the payment amount must be available in terms of the value date. The deduction of cash discounts requires a special written agreement.
- (d) If the term for payment is exceeded, we are entitled, without further dunning, to charge an interest of 9 percentage points above the base rate together with a service fee amounting to EUR 40. We reserve the right to additional claims for damage caused by delay.
- (e) We can demand a premature payment if the buyer has failed to respect any agreed payment terms for previous deliveries, if the solvency of the buyer is doubtful or if the agreed credit limit is exceeded. We have the right, after having set a deadline, to withdraw from the contract totally or partially.
- (f) The buyer may compensate only with counter claims that are undisputed, accepted by us or legally confirmed. The buyer can exert a right of retention only insofar as his counter claim is based on the same contractual relation. We may also compensate with claims that are owed to his affiliated companies by the buyer. On demand, we will disclose our affiliated companies.

## 10. Title retention

- (a) The products remain our property until they are definitively paid for. In relation to businessmen, this applies until the payment of all claims on the buyer from the mutual business relationship.
- (b) The buyer is obliged to keep the products with customary care and to insure them at their reinstatement value at his own expense (esp. against fire damage). The buyer must inform us immediately about any seizure measures by third parties or about any other impairment of the property and, if necessary, take securing measures. Insofar as the third party is incapable of reimbursing us the court costs and extra-judicial costs of anti-enforcement measures (in particular legal action acc. to § 771 ZPO), the buyer is liable for the loss incurred by us.
- (c) In case of a breach of contract by the buyer, in particular in case of payment default or breach of abovementioned duties, we are entitled to withdraw from the contract and demand the restitution of the products.
- (d) The buyer may resell the products within the ordinary course of business as long as he fulfills his obligations towards us according to the contract. Apart from the cases of § 354a HGB, the disposal is prohibited as far as a prohibition of assignment is agreed with the client of the buyer. The buyer transfers the claims and rights at the amount of the sum of the final invoice (incl. VAT) of our claim to the seller. If the buyer integrates this claim into a current account relation with his clients, the current account claim has been transferred at the amount of the gross invoice amount; after netting out, it is replaced by the recognized balance which is also transferred.
- (e) Even after the transfer, the buyer keeps the right to collect the claim. Our right to collect the claim ourselves remains unaffected by that. However, we commit ourselves not to collect the claim as long as the buyer fulfills his payment obligations from the received revenues, does not fall behind in making payments, no application for opening composition or insolvency proceedings has been filed and there is no suspension of payments. However, if this were the case, we can demand that the buyer discloses the transferred claims and their debtors to us, provides all the information necessary for a collection as well as the related documents and informs the debtor (third party) about the transfer.
- (f) A treatment and further processing of the products by the buyer always occurs on behalf of us. If the products are mixed with other products from third parties, we are entitled to the property or joint ownership share of the new product in proportion to the gross invoice amount of the products subject to title retention in relation to that of the other products. In the case of mixing with products of the buyer, we are entitled to the exclusive ownership of the new product.
- (g) We commit ourselves to release the securities we are entitled to on demand of the buyer insofar as the realizable value of our securities exceeds the claims to be secured by more than 10%; we are responsible for the selection of the securities to be released.

## 11. Miscellaneous

- (a) As far as nothing else is provided in the contract confirmation, the place of performance is the industrial premises of the factory producing the products.
- (b) All changes and additions must be made at least in text form (cf. § 126 BGB). These text form requirement can only be changed by adhering to the text form itself. In the event of deviations from the agreed contract conditions, an objection must have been lodged within 24 hours after receipt of respective contract documents.
- (c) As far as the buyer is a businessman, the place of jurisdiction is Leipzig or, at our choice, the place of jurisdiction relevant for the buyer.
- (d) Also for deliveries to other countries, the applicable law is exclusively the law of the Federal Republic of Germany excluding the private international law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (e) The relevant applicable data protection regulations are available on our website: [www.verbio.de/en/privacy-policy/](http://www.verbio.de/en/privacy-policy/).