

**GENERAL TERMS AND CONDITIONS OF SALE**  
**of Münzer Bioindustrie GmbH (MBI)**  
**Division: Biodiesel**  
**Commercial Register Number: FN 256260d**

**I. General Provisions**

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- (1) Supplies of goods and services as well as offers from MBI shall be made exclusively on the basis of these General Terms and Conditions of Sale; any terms and conditions of the buyer that conflict with or deviate from these terms and conditions shall not be acknowledged unless MBI expressly agrees otherwise. Contractual performance on the part of MBI shall therefore not be deemed as consent to any contractual provisions deviating from these terms and condition These General Terms and Conditions of Sale shall also serve as a framework agreement to all further legal transactions between the contracting parties.
  - (2) The contractual partner accepts these terms and conditions by placing an order and no later than upon taking delivery of goods after the conclusion of a valid contract.
  - (3) Any conflicting terms and conditions of purchase or sale of the contractual partner (buyer) are hereby objected to; this applies likewise to any and all future transactions. Any and all subsidiary agreements, amendments and additions must be made in writing in order to be effective.
  - (4) If any provision is invalid in whole or in part, this shall not affect the validity of the remaining part of the provision or the validity of the remaining provisions as a whole. Any such invalid provision shall be replaced by a valid provision that comes closest to the purpose of the invalid provision concerned. The same applies to any loopholes within any specific provisions.

## **II. Contract Conclusion**

- (1) Contracts are generally concluded in writing by email or WhatsApp or another medium after agreement between the contracting parties. Returning the signed confirmation letter is not essential for the conclusion of the contract.
- (2) If verbal or telephone contracts are concluded subject to written confirmation, the content of the confirmation letter shall prevail unless the recipient objects in writing without undue delay, in any event no later than within five business days. Orders become binding upon receipt of the order confirmation or upon delivery, if sooner.
- (3) The specifications of goods attached to the contract and other binding declarations of the seller comprise an integral element of the contract.

## **III. Samples**

Prior to conclusion of the contract, samples and specimens shall be considered as non-binding samples for inspection. Any and all analytical data, including data concerning maximum and minimum values, are to be regarded as approximate only unless specific properties have been expressly promised.

Binding delivery specifications shall be deemed to have been expressly agreed. Variations from binding delivery specifications must be made in writing.

## **IV. Price**

- (1) Unless otherwise agreed, prices are stated as net prices (excluding statutory VAT) for the unit of measure (litre, m<sup>3</sup> or ton) and terms of delivery specified by the seller.
- (2) Special requests of the buyer are not reflected in quotation prices without express agreement and shall be charged separately to the buyer.
- (3) INCOTERMS, as amended from time to time, such as FCA, CPT, CIP, DAP and DDP etc., shall apply to the interpretation of trade terms.

## V. Delivery

- (1) Deliveries shall always be made at contractually agreed and contractually confirmed prices and conditions, plus statutory value-added tax. If fixed delivery dates have been agreed, the buyer must set a reasonable grace period of six weeks in the event of delay. The buyer may cancel the contract upon expiry of the grace period without result.

Any further claims shall be excluded. MBI may also make partial deliveries. The buyer is not entitled to reject a partial delivery.

- (2) Quantities

The weight or volume determined by the supplier or at the supplying warehouse (determined by means of a calibrated measuring device) as stated in the delivery note is binding for any determination of quantity. The respective driver signs the measurement certificate and thus confirms acceptance of the product.

- (3) Complaints regarding quality

The buyer shall examine the quality of goods upon delivery without undue delay. Defects must be stated in writing within three business days and in any event prior to unloading, use, resale, processing, combination or mixture of the goods concerned. Any notice of defects is invalid if the respective goods are no longer in the original shipping wrapper. In the event of legitimate and timely complaints about the goods, the buyer and the seller shall agree on suitable compensation – such as replacement of defective by defect-free goods or a price reduction for defective goods – without undue delay; any further warranty claims or claims for damages shall be excluded.

- (4) Quality assurance

Transport media (rail tank car/truck, etc.) in which goods are collected from the seller's premises must be cleaned (confirmation via presentation of a cleaning certificate – washed and dried – upon collection). Upon presentation of such cleaning certificate, the transport medium will be loaded without consultation with the buyer. Written loading authorization quoting the corresponding order number must be sent to [operations@muenzer.at](mailto:operations@muenzer.at) if the buyer sends obviously dirty transport media (no

cleaning certificate presented at the time of collection). It is expressly noted that loading is not allowed and will not be carried out absent a cleaning certificate and in cases where the previous load consisted of flammable or combustible goods (such as methanol, gasoline, etc.). Non-combustible or flammable substances will be loaded into dirty transportation media at the risk of the buyer in the case of FCA/EXW contracts. The seller cannot be held liable for quality defects and consequential damages as well as lost profits due to dirty transport media provided by the buyer.

The seller shall take two retention samples in the presence of the driver collecting the goods upon collection. Such samples will be taken during the loading process at the loading station and therefore represent reserve sample of the delivered goods.

The sample bottles are sealed in the presence of the driver and covered with (tamper-proof) security labels. Furthermore, the signature of the driver and the logistics employee is placed on the label, thus confirming that the samples were taken at the time of filling the vehicle and correspond to the delivered goods.

One of the sealed samples remains with the seller; the second sample is given to the driver. The reserve samples must be stored properly (cool, dry and dark).

In case of doubt about the quality of the delivered product, the contracting parties expressly agree to send the unopened and sealed sample from the seller to the following independent laboratory: ASG Analytic-Service AG, Trentiner Ring 30, 86356 Neusäss, Germany. The test procedures according to the respective agreed product specification, which likewise comprise an element of the contract, shall be applied.

ASG Analytic-Service AG, Trentiner Ring 30, 86356 Neusäss, Germany, will communicate the results of the analysis to the seller and the buyer. The result of such analysis is deemed to be the quality of the goods and is recognized as such by the contracting parties. For any complaints in the case of FCA/EXW contracts, the return sample related to the quality of the goods retained by the seller shall apply without exception. The contracting parties thus effectively agree that no other evidence will be admitted with regard to quality assurance, quality control and quality claims.

The sealed return sample of the seller and the proof of the carrier commissioned by the seller (cleaning certificate or confirmation of approved pre-carriage provided) shall be considered as the basis for the quality check if goods are delivered by the seller.

The costs incurred by the external laboratory shall be paid by the buyer if the result of the analysis corresponds to the agreed delivery specifications. MBI undertakes to bear the costs of the external laboratory if the delivery specifications for retained samples do not match the result of the external laboratory.

- (5) Upon delivery of goods, the buyer is responsible for the proper technical condition of the tank and the measurement device. The buyer shall bear any damages caused by overflowing because the tank or measurement device is defective, as well as damage caused by contamination and/or mixing with any residue contained in the tank or tanker truck of the customer (buyer), or by a tank or tanker truck of the customer which is contaminated and/or contains water.

- (6) Acceptance of goods

Unless otherwise agreed, goods shall be accepted in bulk and on a timely basis. In the event of default in acceptance, MBI is entitled, without prejudice to other rights, to withdraw from the contract in whole or in part following a reasonable grace period of five business days. The buyer shall provide all necessary connections to the transport vehicle for acceptance of the delivered goods and shall supervise the acceptance either itself or via an authorized representative. Information provided by the buyer regarding the size and capacity of storage containers may be deemed correct by MBI without any obligation to verify such information. MBI shall not be liable for the consequences of incorrect information or neglect of the buyer's duties to cooperate; rather, the buyer shall bear the liability (including for its agents) in such cases.

- (7) Delivery dates

The buyer shall notify MBI of delivery dates no later than two weeks prior to the relevant delivery date. The final delivery date will be fixed after mutual agreement and confirmation by MBI.

Unless otherwise agreed between the contracting parties, continuous, pro rata acceptance is mandatory for supply contracts subject to a longer contractual term.

## **VI. Force Majeure/Loss of Supplier**

- (1) Force majeure, e.g. damage by floods, fire, storms, etc., operational disruptions for which the seller is not responsible, e.g. production stoppages due to strikes, technical breakdowns, machine breakdowns, shortages of labour energy, raw materials or auxiliary materials, etc., and all other circumstances for which the seller is not responsible (defaults by upstream suppliers or upstream products, traffic disruptions, official decrees) or other obstacles which prevent, delay, reduce or render the production, dispatch, acceptance or consumption of any relevant item unreasonable, shall entitle the seller, for the duration and to the extent of the disruptions due to a force majeure event, to discontinue or postpone delivery or acceptance in whole or in part. The seller and the buyer shall each be entitled to revoke the contract if, as a result of such a disruption, delivery and/or acceptance is delayed by more than three months. The buyer shall not be entitled to claim damages from the seller in the event of revocation of the contract under such circumstances. Compensation for expenses incurred by the buyer (in particular penalty payments to third parties) is excluded.
- (2) The conclusion of the contract is subject to correct and timely delivery by the seller's suppliers. The seller is not obliged to compensate for any losses via third-party upstream suppliers in the event of a partial or complete loss of any sources of supply. In such cases, the seller is entitled to make proportionate reductions and to distribute available quantities of goods on a pro rata basis. The seller is released from any outstanding supply obligations to such an extent. There is no obligation to make subsequent deliveries for any shortages. The customer will be informed immediately about the non-availability of the respective goods or services.
- (3) Buyer and seller shall notify each other without undue delay of any such events affecting or hindering the performance of the contractual deliveries and shall endeavour to mitigate the effects for both parties and to restore the original conditions as soon as possible. The contracting parties shall agree as to whether any cancelled deliveries are to be fulfilled after the force majeure event has ceased.

## **VII. Containers**

### **(1) Rail tank cars**

Rail tank cars shall be emptied and returned to the station specified by the seller not later than 48 hours after arrival at the station of destination. Demurrage will be charged for standing times of more than 48 hours. The buyer may not use any rail tank cars provided to it for its own purposes. The buyer shall be liable for any damage to the rail tank cars occurring while the latter are on its premises or on the premises of a customer designated by the buyer.

Rail tank cars shall be returned immediately and only after they have been completely emptied in all cases. Exceptions in legitimately urgent cases require the seller's prior consent. The seller reserves the right to claim damages in the event that rail tank cars are not emptied properly.

### **(2) Trucks**

Trucks shall be emptied immediately upon arrival. Demurrage will be charged for standing times of more than three hours. The buyer shall bear costs incurred due to delays caused by the buyer. The buyer shall ensure proper access to its unloading point.

## **VIII. Payment**

(1) Unless otherwise agreed, payment shall be made immediately upon receipt of the invoice, or within the agreed payment term, without deductions. Exceptions must be agreed in writing.

(2) MBI reserves the right to adjust payment terms in accordance with the maximum cover provided by the credit insurer in such a way that the receivables from the respective contract may at no time be higher than the cover granted by the credit insurer. If no credit insurance is available, the buyer must make payment in advance by cash or submit securities (e.g. bank guarantees) before delivery. In cases of default or reduction in coverage for credit insurance, MBI may unilaterally modify or change the

payment terms and conditions and thus insist on advance payment or the submission of securities (bank guarantee).

- (3) The buyer is not entitled to any set-off unless its counterclaim has been recognized by the seller or has been finally determined by a court. Similarly, the buyer shall not be entitled to any right of retention as to claims arising under the same contractual relationship. Claims may only be assigned with the prior written consent of the seller.
- (4) The seller is entitled to charge interest on arrears in the event of default in payment. The interest rate is 9.2% above the prime rate of the Austrian Central Bank (Oesterreichische Nationalbank). In addition, the seller is entitled to modify the agreed default interest to a reasonable extent if the interest rate level for deposits, money, or capital markets changes or if credit or currency policy measures cause changes in credit markets.
- (5) Furthermore, the seller is entitled to withdraw from the contract with immediate effect – without prejudice to any of its other rights – in the event of default in payment, the initiation of insolvency proceedings in relation to the buyer's assets or if circumstances become known which jeopardize or impede the collection of the claims.
- (6) The seller is entitled to revoke a (contractually) granted payment term with immediate effect in the event of a delay in payment or any of the circumstances as set forth in paragraph (5) above arise. If additional deliveries are made in such cases, including on the basis of deviating agreements, such deliveries shall be made exclusively subject to advance payment or the submission of additional securities.
- (7) Joint buyers shall be jointly and severally liable.

#### **IX. Retention of Title**

- (1) Simple retention of title  
MBI retains ownership of delivered goods until full payment of the purchase price in all cases.



(2) Processing clause

In cases in which goods delivered by MBI are processed by the buyer, MBI is deemed to be the manufacturer and shall immediately acquire an ownership interest in the newly created goods. If such goods are processed together with other materials, MBI shall acquire a direct co-ownership interest in the new goods in the ratio of the invoice value of the goods supplied by MBI to the other materials.

(3) Combination and mixture clause

If goods delivered by MBI are combined or mixed with an object of the buyer in such a way that the object of the buyer is to be regarded as the primary object, the parties are deemed to have agreed that the buyer transfers a co-ownership interest in the primary object to MBI in the ratio of the invoice value of the goods delivered by MBI to the invoice value (or, in the absence of such, to the market value) of the primary object. The buyer shall safeguard the sole ownership or co-ownership interest thus created for MBI free of charge.

(4) Extended retention of title

The buyer is entitled to dispose of goods owned by MBI in the ordinary course of business as long as the buyer meets its obligations under its business relationship with MBI on a timely basis. All claims arising from the sale of goods in which MBI has retained title are assigned by the buyer to MBI upon contract conclusion with MBI; if MBI has acquired a co-ownership interest in the event of processing, combination or mixture, such assignment is made in the ratio of the value of the goods supplied by MBI subject to retained title and the value of the goods owned by third parties subject to retained title. At the time of concluding the contract with MBI, the buyer assigns any outstanding balances under a current account agreement to MBI in an amount equal to outstanding receivables owed to MBI. The buyer is obliged to comply with all formal obligations required for an effective assignment, in particular creating an effective book entry.

(5) Right to obtain information/disclosure

Upon MBI's request, the buyer shall provide all necessary information about the stock of goods owned by MBI and about the claims assigned to MBI. Similarly, upon MBI's request, the buyer shall mark the goods owned by MBI as such and inform its customers of such assignment.

(6) Default in payment

In the event of default in payment by the buyer, MBI is entitled, even without withdrawing from the sales contract and without setting a grace period, to demand the provisional surrender of the goods owned by MBI at the buyer's expense and to revoke the buyer's authorisation to re-sell and process the goods subject to retained title.

**X. Notice Requirements**

The buyer is obliged to inform the seller in writing about any problems and/or delays in the timely and contractually stipulated acceptance of the contractual goods immediately after becoming aware of any such problems or delays.

**XI. Liability**

(1) In general, MBI shall be liable for damages in accordance with applicable statutory provisions. In the case of fault-based liability, MBI shall be liable for damages – regardless of legal grounds – in cases of wilful conduct or gross negligence. MBI assumes no liability in cases of simple negligence.

(2) The limitations of liability pursuant to paragraph (1) shall not apply to

- a) liability for damages resulting from injury to life, limb or health which are based on a negligent breach of duty by MBI or an intentional or negligent breach of duty by one of MBI's legal representatives or vicarious agents;
- b) cases in which MBI has fraudulently concealed a defect;
- c) claims by the buyer under the Austrian Product Liability Act (Produkthaftungsgesetz).

MBI shall not be liable in case of impossibility or delay in fulfilment of delivery obligations if the impossibility or delay concerned is based on the buyer's proper satisfaction of public law obligations imposed under applicable regulations and laws.

## **XII. Data Protection**

- (1) The following provisions shall apply if MBI provides personal data of employees (hereinafter referred to as "personal data") in the course of the performance of the contract or if the buyer otherwise becomes aware of such personal data:

Personal data disclosed in the aforementioned manner and not processed on behalf of MBI may be processed by the buyer exclusively for performance of the contract and may not – except where permitted by law – be processed otherwise; in particular, personal data may not be disclosed to third parties and/or analysed for the buyer's own purposes and/or used to create profiles. The foregoing applies likewise in the event that anonymized data is used.

The buyer shall ensure that personal data is only made accessible to those of the buyer's employees who are involved in the performance of the relevant contract and, in addition, only to the extent necessary for the performance of such contract (need-to-know principle). The buyer shall arrange its internal organization in such a way that it meets the requirements of applicable data protection law and, in particular, shall take technical and organizational measures to adequately protect personal data from misuse and loss.

The buyer does not acquire any rights to personal data and, subject to applicable law, is obliged to delete and or restrict the processing of personal data at any time. There are no withholding rights with regard to personal data. In addition to its obligations set out herein, the buyer shall notify MBI without undue delay, and at the latest within 24 hours, of any personal data breach, in particular in case of loss. Upon termination of the relevant contract, the buyer shall delete all personal data, including any copies made thereof, in accordance with applicable statutory requirements.

- (2) Information about MBI's privacy policy is available at [www.muenzer.at/datenschutz](http://www.muenzer.at/datenschutz).

### **XIII. Jurisdiction**

The exclusive place of jurisdiction shall be the court having subject-matter jurisdiction in Vienna. However, MBI is also entitled to bring an action at the buyer's place of general jurisdiction.

### **XIV. Applicable Law**

The contractual relationship shall be governed by Austrian law – to the exclusion of its conflict of law provisions and to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention).

### **XV. Contract Language**

If these General Terms and Conditions of Sale are communicated to the buyer in a language other than the language in which the contract is concluded (“contract language”), this is being done solely to facilitate understanding. In the event of differences of interpretation, the version prepared in the contract language shall prevail.