

**Conditions for trading plant and animal/marine animal oils,
fats and fatty acids
– Grofor” conditions –**

**Prepared by the Deutsche Verband des Großhandels mit Ölen, Fetten und
Ölrrohstoffen e.V., [German Association of the Wholesale Trade with Oils, Fat
and Oil Raw Products] - GROFOR -, Hamburg**

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[The German version of the “Grofor” conditions is binding and not this English translation.](#)

The Deutsche Verband des Großhandels mit Ölen, Fetten und Ölrrohstoffen e.V. - GROFOR -, Adolphsplatz 1 (Börse), 20457 Hamburg, recommends the following **conditions for trading plant and animal/marine animal oils, fats and fatty acids** to its members as non-binding for use in business. The members are free to follow this recommendation or to use other or supplementary general terms and conditions.

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Section 1

Arbitration clause

1. The Parties subject themselves to the following conditions, as well as the provisions of the court of arbitration that apply on the date lawsuits are filed, of the “Deutscher Verband des Großhandels mit Ölen, Fetten und Ölröhstoffen e.V. - GROFOR -, Adolphsplatz 1 (Börse), 20457 Hamburg.”
2. All disputes with regard to or in connection with this Agreement and its coming into force, as well as any other agreements in connection with it, shall be decided, under exclusion of recourse to the ordinary courts of law, by the court of arbitration of “GROFOR e.V.”, and this not only between purchaser and vendor, but also between those that conclude agreements and business intermediaries.
3. The agreement of the court of arbitration is also effective for the decision on the validity of the transactions, if this is disputed in any manner by one contracting party.
4. Recognised receivables, receivables from cheques and bills as well as purchase price receivables, which despite a reminder have not been disputed until then, may at the creditor’s choice be asserted in an ordinary court of law or the court of arbitration.

Section 2

Letter of confirmation

1. If agent’s contract notes or letters of confirmation are exchanged, or are issued by one contracting party or an agent, their contents shall be authoritative for the contractual relationships. All earlier agreements are thus annulled. Contract notes and letters of confirmation to which objections are not raised in writing without delay shall be deemed to be approved.
2. If agent’s contract notes and/or letters of confirmation are issued, any letter of confirmation of the vendor to which no objection has been made shall be authoritative. If only one letter of confirmation of the purchaser and one agent’s contract note are issued, the letter of confirmation of the purchaser to which no objection has been made shall apply.
3. If additional verbal agreements are made later, these shall only be valid if they are confirmed in writing without delay by at least one side. If no objection is made

to such items of correspondence without delay, they shall be deemed to be approved.

Section 3 On-call agreements

1. If the Parties have not concluded any agreements to the contrary, the agreements concluded, including in the event of agreed collection by the purchaser, shall be performed on the call of the purchaser.
2. The call statement of the purchaser must put the vendor in a position to load, ship or hand over the merchandise within the agreed delivery or acceptance period.
3. The purchaser must announce the desired delivery or acceptance date to the vendor at least five (5) working days in advance.
4. If the purchaser does not issue any call statement up to ten (10) working days before the agreed delivery or acceptance period, after the fruitless expiry of the period of grace set as per Section 7 the vendor shall be entitled to the rights due to non-performance from Section 8.
5. If the purchaser issues a contractual call statement and if the vendor does not provide the merchandise at the point in time specified in the call statement, after the fruitless expiry of a period of grace set as per Section 7 the purchaser shall be entitled to the rights due to non-performance from Section 8.

Section 4 More detailed specification of the point in time of delivery

1. If a delivery is sold within a certain period of time, delivery must be made within this period of time according to the vendor's choice. It must be delivered and received for agreements with the designation:
 - a) "Immediate delivery": within three working days after conclusion of the agreement;
 - b) "Prompt delivery": within seven working days after conclusion of the agreement;
 - c) "Delivery within a specified month": within the month;

- d) “Delivery within a period of several months”: in roughly equal monthly sub-quantities;
 - e) “Successive delivery”: within the agreed time in roughly equal sub-quantities.
2. If no agreement has been made with regard to the point in time of the delivery, (1) a) applies.

Section 5 Acceptance/Collection agreements

- 1. If an acceptance or collection is sold within a certain period of time, the acceptance or collection must be made within this period of time according to the purchaser’s choice. The deadline regulations of Section 4 a) to e) apply accordingly.
- 2. The purchaser must notify and provide the road vehicle in good time so the vendor can deliver within the agreed acceptance time.

Section 6 Place of performance, freight and transport risk

Insofar as the Parties have not made any agreements to the contrary (such as Incoterms), the following regulations apply:

- 1. The place of performance for the delivery is the loading point at which the merchandise is placed on the vehicle that provides carriage. If carriage paid to a delivery location is sold, this shall be the place of performance.
- 2. If free on wagon or road vehicle has been negotiated, the purchaser bears the freight costs and transport risk.
- 3. For agreements concluded freight-free, the vendor bears the freight costs and the purchaser the transport risk.
- 4. For sales carriage paid to a delivery location the vendor bears the freight costs up to this location and the transport risk.

Section 7

Period of grace

1. Any party that does not perform within the agreed period of time falls into arrears.
2. In cases of non-punctual performance of an agreement, the injured party is entitled, after the expiry of the performance deadline, to set a period of grace by electronic means (Section 24), which must arrive at the party in default by 4 pm on a working day, if the period of grace will commence on the next working day.
3. The duration of a period of grace for delivery or acceptance is:
 - a) three working days if a performance period of less than one month is agreed;
 - b) five working days if a performance period of one or more than one month is agreed.
4. The period of grace for issuing a call statement is one working day.
5. A too-short period of grace is not effective. Instead, the periods of grace stipulated in (3) and (4) shall be commenced. A too-long period of grace is effective as set.
6. It is not necessary to set a period of grace,
 - a) if it has been agreed that the agreement will apply or fall on a certain day (fixed date transaction);
 - b) if the other contracting party explicitly declares in writing that they will not perform the agreement;
 - c) if the other contracting party earnestly and finally refuses to perform;
 - d) if there are special circumstances that in consideration of the interests of both sides are equivalent to an earnest and final refusal to perform of the other party.

Section 8

Rights in the event of non-performance

1. After the fruitless expiry of the period of grace the injured party is entitled,
 - a) to withdraw from the agreement or from its non-performed negotiated rates (see Section 10 (6)) and/or
 - b) to assert compensation instead of the performance for these and/or
 - c) to store the merchandise for the account of the defaulting party at a third

location, if the vendor had announced the storage together with setting the period of grace.

2. The rights from (1) a) and b) also apply in cases in which no period of grace is required as per Section 7 (6).
3. If compensation is asserted, the vendor may have a substitute sale or the purchaser have a substitute purchase carried out by a broker for the account of the defaulting party. This measure must be conducted within five working days of the expiry of the period of grace or after the occurrence of non-performance.
4. Further, compensation due to non-performance may be asserted by identifying the difference between the contractual price and the market price (price fixing). Price fixing shall at the choice of the injured party be carried out either by
 - a) a member of the management board of Grofor e.V. or a broker that they commission (price fixing procedure, see Section 37 of the court of arbitration provisions),
 - b) the competent court of arbitration itself in court of arbitration proceedings.
5. The reporting date for price fixing is the working day following the expiry of the period of grace. The same applies in the cases of Section 7 (6).
6. The costs of this price fixing shall be borne by the defaulting party.
7. In the event of one of the cases specified in Section 7 (6), after the expiry of the period of grace the injured party must notify the defaulting party by electronic means (Section 24) without delay of which right they will exercise.
8. If the injured party neglects to proceed in accordance with (7), they shall only be entitled to the right of price fixing. The same applies if an announced substitute transaction is not carried out or is not carried out punctually (see (3)).
9. The competent court of arbitration is entitled and, on application of one party, obliged to review a substitute transaction that has been carried out as per (3) (substitute sale or substitute purchase) or price fixing as per (4) a). If the result of a review of a substitute transaction or price fixing is that these were not carried out correctly, or led to an obviously unfair result, the court of arbitration shall set the price difference itself taking into account the market situation.

Section 9

Hindrances to performance

1. Force majeure is deemed to be circumstances that are outside the control of the parties, such as war, civil unrest, fire, explosions, industrial disputes, import or

export prohibitions domestically or abroad, or official orders. The risk of being

able to resell the merchandise remains with the purchaser; a decline in demand is not deemed to be force majeure.

2. If after the conclusion of an agreement its performance is prevented by force majeure, the agreement or the non-performed part thereof shall be annulled. The other contracting party must be informed in writing or by electronic means (Section 24) without delay of the specified incidents without delay after these become known. If this notification is neglected, the hindrance to performance cannot be asserted with legal effectiveness.
3. If performance is hindered by incidents relating to the elements or by unrest, strikes, lock-outs, a loading block or other equivalent circumstances, the performance deadline shall extend by the duration of the hindrance, if the party affected reports the hindrance to the other contracting party in writing or by electronic means (Section 24) without delay after becoming aware of the hindrance or at the commencement of the performance period. If after the expiry of the performance period the hindrance exceeds thirty (30) days for agreements with a performance period of less than one month, or forty-five calendar days for agreements with longer performance periods, the agreement shall be annulled without mutual remuneration.
4. If the party affected invokes a hindrance to performance, they shall provide corresponding evidence on the request of the other contracting party.

Section 10 **Weight/Quantity**

1. The weight identified at the agreed place of performance shall be authoritative for identifying the weight. If the place of departure is the place of performance and the weight is not identified, the weight identified at the place of receipt shall be authoritative.
2. For agreements carriage paid to a destination, the weight identified there shall be authoritative. If the weight is not identified there, the weight identified at the place of departure shall be authoritative.
3. Each party has the right to be present or represented at the identification of the weight.
4. The agreed weight may exceed or fall short by up to 2% by the vendor, if

“approximately” is agreed by up to 5%.

5. Part-deliveries or part acceptances are permissible but must not fall short of a minimum weight of 23,750 kg (weight = quantity x specific weight).
6. Each negotiated rate or part-performance is deemed to be an independent agreement.
7. If the parties have agreed the contract quantity as volumes, the preceding regulations with regard to weight apply accordingly.

Section 11 Quality

1. If nothing is agreed with regard to the quality of the traded merchandise, healthy, customary merchandise of average kind and quality shall be delivered.
2. If the merchandise is delivered in a tanker with more than one chamber, the contractual agreements must be met in every single chamber.

Section 12 Purchase according to specimen / Approval of sample / “As is”

1. For sales according to specimen the merchandise must on average conform to the specifications, appearances and analysis data of the specimen. Section 11 (2) applies accordingly.
2. For sales according to “approval of sample” it must be agreed until when the purchaser must give their decision. If the parties have not agreed any deadline, a deadline of five (5) working days from receipt of the sample by the purchaser shall apply.
3. If the purchaser does not notify their decision to the vendor within the agreed deadline or within the deadline as per (2) 2, the sample shall be deemed to have been rejected.
4. For sales “as is” the purchaser is obliged to accept the merchandise without regard to the quality under the condition that the merchandise class meets the contractual designation.

Section 13

Examining the merchandise - sampling

1. Sampling is the responsibility of the purchaser and must generally be conducted at the place of performance.
2. If the shipping location is the place of performance, the vendor must grant the purchaser the opportunity to take a representative sample.
3. If no sampling is made at the place of performance, the purchaser may have this carried out without delay after the arrival of the merchandise at the destination.
4. Sampling must be made so that a representative average sample is taken from each chamber of the transport container.
5. The samples must be put into suitable receptacles that ensure the identity of the merchandise is noted.

Section 14

Notice of defects

1. The purchaser must examine the merchandise without delay after receipt, if this is possible in accordance with proper business. If a defect is revealed, this must be reported to the vendor in writing without delay (complaint).
2. If the purchaser neglects to make this report, the merchandise shall be deemed to be approved, unless a defect is involved that was not recognisable in accordance with (1) (hidden defect). If such a defect is revealed later, the report must be made without delay after discovery. Otherwise, the merchandise shall also be deemed to be approved despite this defect.
3. Further, claims due to hidden defects as per (2) are excluded if these are not asserted within twenty (20) working days after the receipt of the merchandise. This does not apply to defects that are known to the vendor but are not readily recognisable to the purchaser.
4. The notice of defects does not release the purchaser from their obligation to receive the merchandise and pay contractually, if the purchaser does not demand a replacement delivery as per Section 15 (1) a) before receipt of the merchandise.
5. (3) and (4) shall not apply if legally-set absolute maximum contents are exceeded in the merchandise delivered, as well as in the event of the presence of undesirable/prohibited substances and contamination.

Section 15

Rights in the event of defects

1. If the delivered merchandise is of properties and condition that are in breach of contract, the purchaser shall at their choice be entitled to the following rights in compliance with the following individual regulations:
 - a) Replacement delivery
 - b) Reduced remuneration
 - c) Compensation in accordance with statutory regulations
2. If the purchaser wishes to exercise the right to replacement delivery, they must notify this to the vendor in writing or by electronic means (Section 24) on the next working day after the notice of defects at the latest.
3. The right to replacement delivery lapses if the merchandise can no longer be returned in the original condition.
4. A reduction in remuneration may only be demanded if the purchaser unsuccessfully set the vendor an appropriate period of grace for a replacement delivery by electronic means (Section 24). Setting a deadline is unnecessary if the vendor earnestly and finally refuses to provide a replacement delivery.

Section 16

Analysis

1. If quality features are agreed in an agreement that can only be identified through an analysis, and if the vendor rejects any complaint of the purchaser in this respect, samples shall be taken by a neutral and expert sampler and examined by a neutral, accredited laboratory. The sampling and analysis of the merchandise subject to complaint must be carried out as quickly as possible. The result of the analysis shall be deemed to be final.
2. If the quality of the examined merchandise does not correspond to the contractually agreed minimum or maximum figures, the vendor must bear the costs for the sampling, analysis and demurrage incurred as a result of this procedure. In contrast, the purchaser must bear these costs if the merchandise corresponds with the contractual agreements.

Section 17

Payment of the purchase price

1. If the parties do not agree anything to the contrary, the outgoing payment for the purchase price must be made within five (5) working days after the invoice is received by the purchaser. If payment is not made contractually, the purchaser shall fall into payment arrears without any reminder.
2. The purchaser is not entitled to offset or retain the purchase amount, unless the vendor discontinues their payments or there are facts equivalent to a discontinuation of payments. Further, the prohibition of offsetting or retention does not apply to undisputed or legally-established counterclaims.

Section 18

Payment arrears

1. In the event of payment arrears, the vendor is entitled to file a lawsuit for payment and to demand the statutory interest on arrears applicable since the commencement of the arrears.
2. The following applies in addition to agreements that provide for delivery of more than one sub-quantity or negotiated rate: If the purchaser falls behind with a payment, the vendor shall only be entitled to withdraw and/or to compensation with regard to the still-outstanding sub-quantities after they have unsuccessfully set the purchaser a period of grace of five (5) working days.
3. The vendor shall also be entitled to withdraw and/or to compensation without a reminder, if the purchaser falls into arrears in more than two (2) cases within one contract.
4. If there are justified doubts about the solvency of the purchaser, the vendor may demand prepayment even if other terms of payment had been agreed.

Section 19

Other payment claims

Other payment claims must be met within five (5) working days after the receipt of the invoices. After the fruitless expiry of this deadline the beneficiary may sue for the receivables and demand statutory interest.

Section 20

Discontinuation of payment

1. If one contracting party discontinues their payments, or if facts exist that are equivalent to a discontinuation of payment, any claims to performance of the agreement shall lapse, insofar as these have not been met by both sides. With the discontinuation of payment or if facts exist that are equivalent to a discontinuation of payment, the claim to payment of the price difference that results between the contract price and the market price shall replace performance claims, which shall be mutually offset.
2. The market price shall be identified in compliance with the regulations of Section 8 (4). The reporting date shall be deemed to be the working day following that on which the discontinuation of payment or of an equivalent fact becomes known. The costs for price fixing shall be borne by the party that falls into payment difficulties.

Section 21

Retention of title

1. The merchandise or documents remain the property of the vendor until the payment in full of all the vendor's receivables from the purchaser resulting from the business relationship. In the case of an open account, retention of title shall be deemed to be security for the relevant outstanding balance.
2. The working or processing of merchandise that remains the vendor's property shall be carried out for the vendor as a manufacturer and on their behalf, without the vendor incurring any payables. The vendor shall be entitled to ownership of the new item created through working or processing without regard to the point in time and degree of working or processing. In the event of processing with other merchandise that does not belong to the purchaser the vendor shall be entitled to co-ownership of the item in relationship of the value of the reserved goods to the other processed merchandise at the time of processing. In the event that notwithstanding the preceding regulation the purchaser acquires (co-) ownership to the reserved goods of the vendor, the purchaser shall on concluding an agreement transfer to the vendor (co-) ownership of the merchandise for the time of its acquisition and shall store the merchandise for the vendor. The purchaser hereby cedes any surrender claims towards third owners to the vendor.

The merchandise is deemed to be reserved goods in accordance with these provisions.

3. In the event the merchandise delivered by the vendor is mixed or compounded with other items, the purchaser hereby transfers to the vendor their ownership or co-ownership rights to the mixed inventory or the new item and shall then store these for the vendor. Any surrender claims towards third owners are hereby ceded to the vendor.
4. The purchaser is empowered to dispose further of the merchandise in (co-) ownership of the vendor in orderly business in return for cash payment or subject to reservation of title. The purchaser is prohibited from pledging or assignment as security. On the conclusion of an agreement the purchaser cedes to the vendor all the receivables to which the purchaser is entitled from a further disposal, regardless of whether these result before or after the processing, mixing etc., including all ancillary rights as well as any claims to compensation from credit insurance. In the event that the merchandise is only co-owned by the vendor or is sold by the purchaser together with other merchandise that does not belong to the vendor – regardless of its condition – at a total price, the ceding of the receivable already hereby carried out shall only be of the amount that the vendor had invoiced the purchaser for the relevant part of the merchandise.
5. The purchaser is until revocation entitled to collect the receivable to which the vendor is entitled, which they acquired through the cession. On revocation, this right passes to the vendor – including in the event of insolvency. Further, the purchaser shall grant the vendor access to the merchandise at any time, as well as on demand by the vendor to label the merchandise as the vendor's property and to issue the vendor all requested information. In the event of arrears in payment the purchaser shall at the request of the vendor report the transfer of receivables to the subsequent purchaser. In the event the purchaser receives bills or cheques from a further disposal to a third party, the purchaser cedes the bill or cheque receivable to which they are entitled to the vendor and does this at the amount of the receivable ceded to them from the further disposal. The purchaser shall transfer ownership of the bill or cheque certificate to the vendor; the purchaser shall store the certificate for the vendor.
6. In the event of third-party access to merchandise in the ownership or co-ownership of the vendor, or to receivables ceded to the vendor, the purchaser shall safeguard the vendor's rights and inform the vendor of such accesses by electronic means (Section 24) without delay.
7. As long as the vendor owns the delivered merchandise, the merchandise must

be sufficiently insured by the purchaser against the usual risks. The purchaser hereby cedes to the vendor any receivables resulting from a claim, in particular from insurers, to secure the vendor's claims up to the amount of their receivable.

8. The vendor shall provide the purchaser with any excess security on request. Excess security exists if the value of the securities exceeds the value of the receivables secured by more than 20%.

Section 22 Applicable Law

This Agreement is subject to German law. The Incoterms of the International Chamber of Commerce that are valid on the conclusion of the agreement apply in addition. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (BGBl.1989, Part 11, p. 588 et seq.) does not apply.

Section 23 Deadlines

1. Working days are all usual working days with the exception of Saturdays as well as 24 and 31 December.
2. The date an agreement is concluded and the date of receipt of a declaration that is subject to a deadline shall not count towards calculation of the deadline.
3. Any declarations that are received after 4 pm on a working day shall be deemed to be received on the next working day.
4. Any national or state public holidays recognised differently in law shall only work in favour of the party that must give or receive a declaration or carry out an action on such a date.

Section 24 Notifications

1. If notifications in accordance with these conditions must be given in writing, this includes transmission by fax or email.
2. If notifications in accordance with these conditions must be given by electronic means, transmission must be made by fax or email.

Section 25 Commission

The vendor shall pay an agent the agreed commission regardless of whether the brokered agreement is performed or annulled, unless the agent is provably culpable for the non-performance or annulment.

Section 26 Lapse of claims from agreements and period of limitations

1. An agreement expires automatically if it has not been performed by either party within three months after the expiry of the time of performance set in the agreement. If no time of performance is agreed, this deadline commences on the conclusion of the agreement.
2. If no reminder is given within the deadlines specified in (1), contractual claims shall initially continue to exist.
3. In this case the contractual rights shall lapse at the end of the month after the expiry of the deadlines specified in (1), if one of the parties has not asserted its contractual rights in writing or by electronic means (Section 24).
4. Otherwise, claims from agreements shall be subject to a period of limitations of one year. The period of limitations commences at the end of the month in which the performance deadline ends.

Hamburg, 1 July 2022