

General terms of delivery for malt

1. Obstacles to Fulfillment

Brewing grain is a natural product. Climatic conditions are not predictable. Therefore, within the framework of a fair partnership, buyers and sellers shall agree on an adjustment of the delivery quantity, price or specifications in the event of significant qualitative or quantitative shortfalls in the grain harvest relevant to the contract and non-fulfillment of purchase contracts. If the negotiation does not lead to a common result, the arbitration court shall decide.

The provisions of Section 20 of the Standard Terms and Conditions (STC) shall apply to impediments to performance due to force majeure, import or export bans in Germany or abroad, official measures or other circumstances for which a contracting party is not responsible.

The deliveries are subject to the timely and complete self-delivery. The seller will immediately inform the buyer about an existing unavailability and immediately refund any consideration already paid.

2. Sampling/Analysis

Sampling is the responsibility of the purchaser and shall take place at the place of performance in accordance with § 14 STC. The average value from the samples taken during unloading shall be decisive for the analysis. Sampling and sample preparation shall be carried out in accordance with the provisions of the Standard Terms and Conditions. In case of dispute, the analysis of the agreed testing laboratory shall be decisive.

3. Complaints

For complaints, § 32 of the Standard Terms and Conditions shall apply. Warranty claims shall not be excluded by the fact that the goods have been touched by the Buyer. The Buyer may only demand the return of the goods if the identity of the goods has been preserved by separation or other appropriate measures.

4. Compensation for Damages

The Seller shall be liable for defects in accordance with § 36 of the Standard Terms and Conditions and shall bear, within the scope and on the basis of the statutory liability for defects, the compensable damages and expenses incurred by the Buyer in the event of subsequent performance and/or exercise of further rights due to defects, if there is fault on the part of the Seller. The liability for personal injury (life, limb, body) and under the Product Liability Act remains unaffected. With the exception of liability for personal injury and under the Product Liability Act, the limitation period shall apply in accordance with § 49 No. 3 of the Standard Terms and Conditions.

5. Freight Rate

Changes in the freight rate after conclusion of the contract and before full performance of the contract shall increase or decrease the agreed contract price by the amount by which the freight rate increases or decreases. The change shall take effect from the beginning of the month following the notification of the change in the freight rate to the Buyer.

6. Transport conditions road

The malt must be transported in accordance with good transport practice based on GMP 4.1 for road transport. Only transport vehicles which, according to their hygiene status and the previous loads, permit the transport of bulk goods in accordance with the provisions of GMP 4.1 are to be used. This must be proven by the drivers of the delivering vehicles by documenting the last three previous loads and the last cleaning measure carried out on the delivery bill as well as by carrying the certificates of any further necessary cleaning measures of category C (cleaning using water and cleaning agents) or D (disinfection).

7. Unloading and Waiting Times

Up to two hours are allowed for unloading the malt including possible waiting times before or after unloading at the buyer's premises. The costs for unloading and waiting times exceeding this are to be borne by the buyer.

8. Transport Containers

If the Seller provides the bags/big bags, they must be returned to the Malting House within four weeks, unchanged and undamaged, freight prepaid. Lost and damaged bags/big bags shall be replaced at the daily rate of new bags/big bags of the same value.

9. Acceptance

If the purchaser calls off the partial quantities of the overall contract to a lesser extent despite forward-planned delivery timing and if a surplus remains at the end of the contract term, negotiations shall be held on the treatment of the surplus.

If the negotiations do not lead to a mutually agreeable result, the Standard Terms and Conditions shall apply. Until the end of the negotiations, the time limits of § 49 of the Standard Terms and Conditions shall not start to run.

10. Retention of Title

Until full payment of the purchase price and also future claims arising from the business relationship, the goods delivered in each case shall remain the property of the seller. In all other respects, § 42 of the Standard Terms and Conditions shall apply.

11. Payment and Payment Default

The invoice amount is to be paid on the due date by the buyer in cash or by bank transfer. In the case of check payments and bank transfers, payment is deemed to be made only on the day of valuation or redemption by the seller. The buyer is entitled to offset only if the counterclaim has been legally established. The buyer is already in default, without a special reminder, if he does not make the stipulated payments according to the agreement. In the event of late payment, interest on arrears will be charged at the statutory rate.

In the event of default in payment, Seller reserves the right to make further deliveries only after payment of the invoice(s) due and to demand payment in advance for further deliveries, notwithstanding any agreements to the contrary and without further amendment of other agreements.

12. Set-off and Retention

Section 39 (5) of the Standard Terms and Conditions shall apply to offsetting and retention. In addition thereto, the Buyer may only exercise a right of retention if the counterclaim is based on the same contractual relationship.

13. Arbitration Court

For disputes arising out of and in connection with the agreements made, the parties agree, to the exclusion of the ordinary course of law, that the Arbitration Court of the Mannheim Product Exchange (Mannheimer Produktenbörse) shall have jurisdiction. The arbitration proceedings shall be governed by the Rules of Arbitration of South West product exchange (Südwestdeutsche Warenbörsen e.V.) in the version valid on the date of filing of the claim.

14. Miscellaneous Provisions

Unless otherwise agreed in these GTC and the other agreements of the parties, the relevant provisions of the "Standard Terms and Conditions for the German Grain Trade" (in short: Standard Terms and Conditions) and the "Supplementary Provisions to the Standard Terms and Conditions for the German Grain Trade for Transactions in German Malting Barley" (in short: Supplementary Provisions) shall apply in their latest version at the time of conclusion of the contract. Any conflicting terms and conditions of purchase or sale of the contracting parties shall not apply.

Should individual provisions of this contract be or become invalid, this shall not affect the remaining provisions. The parties undertake to replace the invalid provision with a legally permissible provision that comes as close as possible to the economic purpose of the invalid provision.