

# General Terms and Conditions – Purchase for Meat and Other Foodstuffs –

(Last update: December 2022)

## Westfleisch SCE with limited liability

Fridtjof-Nansen-Weg 5a, 48155 Münster, Germany  
referred to hereinafter as "User"

### 1. scope of application

- (1) The following terms and conditions shall apply exclusively to all legal transactions - including future transactions - between the „user“ (Westfleisch SCE mbH and the companies of the Westfleisch Unternehmensgruppe Westfleisch SCE mbH, in particular Dog's Nature GmbH, Westfleisch Erkenschwick GmbH, Westfleisch Sales GmbH and Gustoland GmbH) and the „contractual partner“ unless deviating terms and conditions have been expressly acknowledged or agreed in writing.
- (2) Terms and conditions of the contractual partner or third parties shall not apply, even if the user does not separately object to their validity in individual cases. Even if the user refers to a letter which contains or refers to the terms and conditions of the contractual partner or of a third party, this does not constitute agreement with the validity of those terms and conditions.

### 2. orders and commissions

- (1) If the user submits an offer to conclude a contract, he shall be bound by it for one week after the date of the offer, unless the user's offer expressly contains a binding period. The receipt of the declaration of acceptance by the User shall be decisive for timely acceptance. If the contractual partner submits the offer to conclude the contract, the User may accept the offer within 6 weeks of receipt of the offer by the User.
- (2) The User shall be entitled to change the time and place of delivery as well as the type of packaging at any time after submission or acceptance of the offer by the User by written notification at least 7 calendar days prior to the agreed delivery date. The same applies to changes to product specifications insofar as these can be implemented within the framework of the normal production process of the contractual partner without considerable additional effort, whereby in these cases the notification period pursuant to the preceding sentence shall be at least 14 calendar days. The User shall reimburse the contractual partner for the proven and reasonable additional costs incurred as a result of the change. If such changes result

in delays in delivery which cannot be reasonably avoided in the normal production and business operations of the contractual partner, the originally agreed delivery date shall be postponed accordingly. The contractual partner shall notify the user in writing of the additional costs or delays in delivery to be expected from the user on the basis of a careful assessment in good time before the delivery date, but at least within 5 working days of receipt of the notification pursuant to sentence 1.

- (3) The User shall be entitled to terminate the contract at any time by written notice stating the reason if the User can no longer use the ordered products in his business operations due to circumstances occurring after conclusion of the contract. In this case, the User shall pay for the partial performance rendered by the contractual partner.

### 3. prices, terms of payment, invoice details

- (1) The price stated in the order is binding.
- (2) Unless otherwise agreed in writing, the price includes delivery and transport to the shipping address specified in the contract, including packaging.
- (3) If, according to the agreement reached, the price does not include the packaging and the remuneration for the packaging - not only provided on loan - is not expressly determined, it shall be charged at the verifiable cost price. The contractual partner is obliged to dispose of the transport packaging at his own cost. At the request of the user, the contractual partner must prove that he fulfils this obligation.
- (4) Unless otherwise agreed, the User shall pay the purchase price within 21 days of delivery of the goods and receipt of invoice with 3% discount or within 42 days net. For the timeliness of the payments owed by the User, the receipt of the transfer order by the User's bank shall suffice.
- (5) All order confirmations and invoices shall state the order number, the article numbers, delivery quantity and deli-

very address of the User valid at the contractual partner and at the User. If one or more of these details are missing and the processing by the User is delayed as a result in the normal course of business, the payment periods referred to in para. 4 shall be extended by the period of the delay.

- (6) In the event of default in payment, the User shall owe default interest at a rate of five percentage points above the base interest rate pursuant to § 247 of the German Civil Code.
- (7) The User shall be entitled to retention, set-off and exploitation rights to the extent permitted by law.
- (8) Minor surcharges or surcharges for small quantities shall not be paid.
- (9) The user shall be entitled to set off within the Westfleisch Group of Companies, cf. Section 1 para. 1 of these General Terms and Conditions.

#### 4. delivery time and delivery, passing of the risk

- (1) Each delivery must be accompanied by the corresponding delivery note. The delivery note shall contain at least the information specified on the user's delivery note.
- (2) The delivery time (delivery date or period) specified in the purchase order or otherwise binding in accordance with these General Terms and Conditions of Purchase shall be binding. Early deliveries are only permitted with the consent of the user.
- (3) The contractual partner shall be obliged to inform the user immediately in writing if circumstances occur or become apparent that the delivery time cannot be adhered to.
- (4) If the day on which delivery is to take place at the latest can be determined on the basis of the contract, the contractual partner shall be in default at the end of this day without the need for a warning by the User.
- (5) In the event of a delay in delivery, the User shall be entitled without limitation to the statutory claims, including the right to withdraw from the contract and the claim for damages in lieu of performance after the unsuccessful expiry of a reasonable grace period.
- (6) In the event of delays in delivery, the User shall be entitled to demand a contractual penalty in the amount of 0.5 %, but not more than 5 %, of the respective order value for each commenced week of the delay in delivery following prior written warning to the contractual partner. The contractual penalty shall be set off against the damage

caused by default to be compensated by the contractual partner.

- (7) The contractual partner is not entitled to make partial deliveries without the prior written consent of the user.
- (8) Even if dispatch has been agreed, the risk shall not pass to the User until the goods have been handed over at the agreed destination.

#### 5. transport conditions

- (1) The contractual partner shall ensure that the following transport conditions are complied with. In the event of violations, acceptance may be refused by the User.
- (2) Meat and entrails may only be delivered in hygienically faultless refrigerated vehicles with functional refrigeration equipment which guarantees the core temperatures described in Section 6.2 and which must be cleaned and disinfected before each delivery.
- (3) A temperature recorder shall be provided in the vehicle. Upon request, temperature records must be provided immediately, at the latest within 24 hours of delivery.
- (4) Larger pieces of meat (halves of pigs, calves, quarters of beef and cuts thereof) must be transported hanging. Only EURO meat hooks are permitted. Goods that cannot be transported hanging must be protected from adverse influences in/on perfect transport containers (Euro boxes, Big Boxes, H1 pallets). The containers intended for packaging must be hygienically flawless. Black, green, grey and yellow Euro boxes will not be accepted.
- (5) Only EURO plastic pallets (H1) whose respective tare weights must be visible are permitted. The packed pallet must be secured against slipping with straps, shrink hoods etc.. The goods must not be stacked on top of each other.
- (6) The total number of hams per Meat-Bracket may not exceed 10 for the delivery of hams delivered hanging on so-called Meat-Brackets.
- (7) In the case of hanging goods, unloading via pipe track connections must be ensured.
- (8) Parts of meat that have been in contact with the ground will not be accepted.
- (9) Goods must be sufficiently covered or wrapped with a foil box bag and completely covered so that negative external influences can be ruled out. Cartoned goods will only be accepted in closed cartons. Spice mixtures and auxiliary materials shall be additionally covered by a secondary wrapping which complies with the declarations of con-

formity (section 12 of these Conditions).

- (10) Goods to be delivered may not be transported together with used empties.
- (11) When selecting the transport material, the possible foreign body input potential shall be taken into account.
- (12) Mixed pallets (i.e. different articles on one pallet) are not permitted.

## 6. delivery

- (1) The following additional provisions shall apply to the delivery of the goods to the user.
  - (2) The core temperature of the goods shall be measured upon delivery. The following temperatures must not be exceeded:
    - + 7 °C for half pigs, quarters of beef, calves and cuts thereof
    - + 7 °C boneless pork, beef and veal
    - + 4 °C for poultry meat
    - + 3 °C all entrails and slaughter by-products / heads
    - 18 °C for deep-frozen goods (temporarily - 15 °C on loading)

The delivery temperatures of other foodstuffs not mentioned in this list can be found in the specifications.

- (3) The delivered goods shall be inspected by qualified personnel. If complaints arise with regard to defects in the goods or deviations from the order, unclean vehicle, dirty goods, unclean slaughtering, fallen pieces, old smell, excessively high temperatures, etc., acceptance may be refused or subject to reservation. If the goods are accepted subject to reservation, the goods will be inspected by the person responsible for the process in order to make a decision on their use.
- (4) Abscesses and other meat components not suitable for human consumption shall be disposed of. If the contractual partner does not issue a credit note for this immediately, the user is entitled to the rights described in section 7. For hygienic reasons, the return transport of meat parts not suitable for human consumption by normal delivery vehicles is not permitted.

Random samples for microbiological analysis shall be taken at the time of acceptance of the goods. In the event of negative deviations from the specifications within the framework of the microbiological incoming goods findings, the contractual partner shall bear the inspection

costs. The whereabouts of the goods shall be determined by the plant location.

- (5) The correctness of the inspections carried out must be confirmed by the counter-signature of the delivery personnel. If confirmation is refused or does not take place, the documented results shall be deemed correct.
- (6) In the event of refusal to accept a delivery in the absence of the driver, the contractual partner will be informed by the user by telephone or telex.
- (7) Complaints about parts of the delivery entitle the user to reject the entire shipment.
- (8) Returns not caused by the user or reloading or unloading necessary due to improper loading shall only be carried out against payment. The costs incurred will be charged to the contractual partner at 40.00 € per hour/employee.
- (9) In case of return, the number of items and the reasons shall be noted in writing on the delivery note and shall be countersigned by the supplier (driver).
- (10) The user assumes no liability for the storage of rejected goods and for weight losses, transport damages and thefts occurring on the return transport.
- (11) The weights, quantities, categories and commercial classes determined by the User shall be decisive for payment. Loss of weight, transport damage or theft occurring during transport shall be at the expense of the contractual partner. In the event of major differences, a second weighing or counting may be carried out at the request of the contracting party. The request must be made immediately after the weighing or counting. The contractual partner may also use a neutral expert or veterinarian at his own expense for the assessment. The weights or quantities determined by the user must be countersigned by the supplier (driver). Later complaints are generally excluded.
- (12) In all other respects, the provisions of the user's house rules are to be observed, which can be inspected at the gate or can also be sent at the request of the contractual partner.
- (13) The contractual partner guarantees that the delivering employees are trained in handling food and are in possession of a valid health certificate or an official certificate of instruction in accordance with § 43 of the German Infection Protection Act. At the request of the user, these circumstances must be proven by submitting suitable certificates (a copy if necessary).
- (14) Smoking is strictly prohibited on the entire company premises. Smoking is only permitted in the designated areas.

The cigarette butts must be disposed of in ashtrays. In case of non-compliance, the contract partner will be charged € 50.00 for each violation. The assertion of further claims for damages remains unaffected by this.

## 7. warranty for defects

- (1) In the event of defects in the goods, the user shall be entitled without restriction to the statutory claims.
- (2) In particular, non-compliance with the provisions of the specifications, microbiological limit values and declarations of conformity which apply to the User and are part of the contractual relationship (quality agreements) shall be deemed a defect.
- (3) The user shall inform the contractual partner in text form of any changes to the specifications, microbiological limit values and declarations of conformity. If the contractual partner agrees to the validity of the changed documents or does not object to the changes in text form within 14 days of receipt of the declarations of conformity, the changed declarations of conformity shall become agreements on legal and natural facture for all subsequent contracts concluded between the user and the contractual partner.
- (4) Defects shall in any case be notified in good time if they are notified to the contractual partner in writing or verbally within 7 working days of receipt of the goods. Hidden material defects shall in any case be notified in good time if the notification to the contractual partner is made within 7 working days of discovery.
- (5) In particular, the contractual partner shall be obliged to reimburse all expenses arising from or in connection with a callback action carried out by the user due to the defective performance of the contractual partner. As far as possible and reasonable, the User shall agree with the contractual partner on the content and scope of the recall action to be carried out, inform the contractual partner and give the contractual partner the opportunity to comment.
- (6) The User shall not waive warranty claims by acceptance or approval of samples or specimens submitted.
- (7) The settlement of the invoice of the contractual partner does not constitute an acknowledgement that the delivered goods are free of defects, that they have the contractual quality or the warranted characteristics, or that the delivery has been made completely or on time.
- (8) The User shall be entitled, at the expense of the Contract Partner, to carry out the subsequent performance and/or rectification itself or to have it carried out by a third party

if there is imminent danger or special urgency and further waiting, in particular setting a reasonably short deadline for subsequent performance, is unreasonable.

- (9) The warranty period shall be 36 months, calculated from the passing of risk, unless a longer warranty period results from the contract or the law.
- (10) If the contractual partner stops making payments or if insolvency proceedings are instituted against his assets, the user shall be entitled to withdraw from the contract in respect of the unfulfilled part.
- (11) The statute of limitations for warranty claims shall be suspended upon receipt of the notice of defects by the contractual partner until the contractual partner seriously and finally rejects the claims, declares the defect to have been remedied or otherwise refuses to continue negotiations on the claims. The warranty period for replaced and repaired parts shall commence again in the event of a replacement delivery and rectification of defects, unless it must be assumed, according to the behaviour of the contractual partner, that he did not consider himself obliged to take the measure, but only carried out the replacement delivery or rectification of defects as a gesture of goodwill or similar reasons.

## 8. product liability / damages

- (1) The contractual partner is responsible for all damages incurred by the user or asserted by third parties due to personal injury or property damage which are attributable to a defective product delivered by him and is obliged to compensate the contractual partner for the damage or to release him from the resulting liability at first request. In the event of defects, the user shall be entitled without limitation to the statutory claims. In particular, the occurrence of an animal disease in the Federal Republic of Germany shall be deemed a defect within the meaning of this provision.
- (2) If there is a defect for which the user can basically demand compensation, the contractual partner must pay a processing fee of € 50.00 net for each defective article, whereby the fee is incurred only once per packaging unit. The user expressly reserves the right to claim higher damages in individual cases.
- (3) If a callback to third parties becomes necessary due to a defect in a product supplied by the contractual partner, the contractual partner shall bear all costs associated with the callback campaign. If the User is guilty of contributory negligence pursuant to § 254 of the German Civil Code in the event of damage to the third party, the liability of the contractual partner pursuant to para. 1 or para. 2 sentence 1 shall be reduced in proportion to the fault.

- (4) The contractual partner is obliged to maintain a product liability insurance with a coverage of at least € 5,000,000.00 at his own expense. The contractual partner shall send the user a copy of the liability policy at any time upon request.

## 9. performance default outside the sphere of influence of the user / Acts of God

- (1) If the acceptance is made impossible or excessively difficult in the sense of § 275 para. 2 BGB (German Civil Code) due to force majeure, such as in particular war and its consequences, fire damage, floods, strikes, lawful lockouts as well as epidemics and pandemics insofar as a danger level of at least „moderate“ is defined by the Robert Koch Institute, official measures, plant shutdowns, strikes, extreme weather conditions, animal epidemics or similar circumstances - also at suppliers of the User, the User shall be released from the obligation to take delivery for the duration of the impediment to taking delivery and its after-effects. He shall not be liable for impossibility and delay insofar as he is not responsible for them.

This shall also apply if material shortages and production bottlenecks occur as a result of war, which are not a direct consequence of the war event, but their indirect consequence, such as an expected gas shortage due to the Ukraine War 2022, which may lead to a production restriction for which the User is not responsible.

- (2) The foregoing also entitles the User to withdraw from the contract if and to the extent that it can no longer reasonably be expected to adhere to the contract. In the event of non-delivery or insufficient delivery to the User by its upstream suppliers and associated production restrictions, or in the event of restrictions on the energy required for production, etc., the User shall be wholly or partially released from its purchase obligations towards the contractual partner. This shall only apply if he has taken the necessary precautions to fulfil his obligation and has also carefully selected possible upstream suppliers. In this case, he undertakes to assign his claims against possible suppliers to the contractual partner upon request. In this case, the contractual partner remains obliged to counter-performance in accordance with § 326 para. 3 BGB (German Civil Code). The User shall inform the Contractual Partner immediately of the occurrence of the above-mentioned events and the non-availability and, in the event of withdrawal, reimburse the Contractual Partner's counter-performance immediately.
- (3) In such cases, the contractual partner shall not have any rights arising from non-acceptance, reduced acceptance or delayed acceptance. The User must notify the contractual partner of the occurrence of force majeure, unless it is obvious. As reasonable contracting parties, the parties shall attempt to mutually mitigate the consequences of

force majeure on the basis of the consequences. The corresponding agreements shall be set out in writing. This includes the scope of acceptance as well as agreements with regard to agreed prices, which have to take into account the changed conditions, as well as delivery dates, etc., which may have to be changed appropriately, insofar as a continuation of the acceptance becomes reasonable as a result.

The foregoing shall also apply if the fulfilment of all obligations is not possible taking into account employee protection rights.

## 10. plant visit

- (1) The user shall have the right to carry out unannounced inspections of
- (a) the seller's plants where the products are manufactured,
  - (b) any other plant of the seller, equipment during the regular working hours there.
- (2) The User shall also be entitled to inspect all documents relating to quality assurance, production, storage and transport of the products to be delivered to the User.
- (3) Any modification of quality parameters and product compositions of goods intended for the User shall be subject to prior written approval by the User.

## 11. marking on delivery

- (1) Each delivery shall comply with the requirements for the marking of transport units listed in the „Directive on the marking of transport units“.
- (2) Each pallet shall be individualised and appropriately labelled. The minimum requirements for the information on the plate label are set out in the document „Requirements for pallet labels“.
- (3) In the event of non-compliance with these requirements, the user may refuse acceptance in whole or in part and assert the rights set out in points 7 and 8 of these General Terms and Conditions.

## 12. declarations of conformity

- (1) The contractual partner guarantees compliance with all legal regulations, in particular, but not limited to, those mentioned in the following paragraphs, in connection with the production and trade of the goods to be delivered.
- (2) The contractual partner confirms that the delivered goods are not subject to labelling in accordance with EC

Regulation 1829/2003 and EC Regulation 1830/2003 as amended. In addition, the contractual partner guarantees that the goods sold in accordance with the Eco-Regulation meet the requirements of Regulation 834/2007/EC in its currently valid version.

- (3) All packaging used must meet the requirements of the user's declarations of conformity. If no declarations of conformity exist, the packaging used must comply with the requirements of §§ 30 and 31 of the German Food and Feed Act, Regulation (EC) No. 1935/2004 and Regulation (EC) No. 10/2011 as amended. The packaging materials used are specified with regard to the area of application and are harmless for the food. Corresponding migration tests are carried out directly or by the contractual partner and can be submitted within 36 hours.
- (4) In its „Code of Conduct for Suppliers and Business Partners“, the user has defined principles and requirements regarding compliance with human rights and environmental standards in the supply chains. The contractual partner guarantees that it will comply with the requirements of the „Code of Conduct for Suppliers and Business Partners“ valid at the time and, if applicable, that it will impose the same obligation on any upstream suppliers it uses. The „Code of Conduct for Suppliers and Business Partners“ can be viewed at [www.westfleisch.de](http://www.westfleisch.de).

### 13. other provisions

- (1) The contracting party shall, on request, notify the user of the address of the competent veterinarian. The contracting party declares that it is prepared to obtain information directly from the competent veterinarian of the supplying establishment at any time in the event that defects are discovered.
- (2) The contracting party shall provide up-to-date (maximum three months old) chemical and microbiological analyses
  - the raw material (including salmonella examination)
  - industrial hygiene, as well as
  - Residue analysis of the meat on demand. These analyses shall demonstrate marketability and conformity.
- (3) The use of mineral oil-based auxiliary materials is prohibited unless expressly agreed in writing.

### 14. place of performance, place of jurisdiction, applicable law

- (1) The business premises of the User's head office in Münster (Westphalia) shall be the place of performance for

both parties.

- (2) The place of jurisdiction for all legal disputes arising from or in connection with contracts between the User and the contractual partner shall be Münster (Westphalia), Germany.
- (3) The relations between the User and the contractual partner shall be governed exclusively by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
- (4) Verbal collateral agreements or deviations from the above General Terms and Conditions between the contractual partner and the user are not legally binding. They must be in writing in order to be effective.
- (5) Insofar as the contract or these General Terms and Conditions of Delivery contain gaps in the provisions, those legally effective provisions which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery had they been aware of the gap in the provisions shall be agreed to fill these gaps..

### 15. secrecy and confidentiality

- (1) The contractual partner shall keep secret business and trade secrets of the user which have been entrusted to him or become known to him as such in the course of or on the occasion of the performance of the contract, even after termination of the contract.
- (2) Both parties will treat the contents of this contract confidentially. Excluded from this is the disclosure to persons who are subject to the legal obligation of confidentiality, insofar as this disclosure is necessary for the proper management of the business or to safeguard legitimate interests. Confidential documents shall be kept separately and kept under lock and key so that they are not accessible to unauthorised persons.

### 16. other contractual bases and regulations

These General Terms and Conditions are subject to the following provisions, which can be accessed in their respective valid form at [www.westfleisch.de](http://www.westfleisch.de). These regulations are - even if they are not expressly mentioned above - part of the general terms and conditions of the user in accordance with No. 1 of these general terms and conditions and have the same effect on the legal transactions concluded between the user and the contractual partner. The User shall immediately notify the contractual partner in text form of any changes to the regulations described below. If the contractual partner agrees with the changed contents or does not object within 14 days of receipt of

the notification, the respective regulations with the changed contents shall apply to all legal transactions between the user and the contractual partner concluded hereafter.

- Requirements for conformity Packaging material
- Requirements for the delivery note
- Requirements for pallet labels
- Directive on the marking of transport units
- Microbiological guideline values for incoming goods Westfleisch
- privacy statement

## 17. data protection

All legal relationships are subject to the user's data protection rules, which can be viewed at <https://www.westfleisch.de/datenschutz/>.