

# General Terms and Conditions of Hanse-Agro-Control GmbH

## 1. Application and Scope of the General Terms and Conditions

- 1.1. These General Terms and Conditions (hereinafter **Terms and Conditions**) apply to all quotations and performances of Hanse-Agro-Control GmbH (hereinafter the Company), regardless of whether these are provided directly or through a subcontractor, towards legal entities and partnerships with legal capacity, which on concluding a legal transaction act while exercising their commercial or self-employed activity, and towards legal entities under public law and/or separate legal entities under public law from which they have received an order (hereinafter **Customer**).
- 1.2. These Terms and Conditions of the Company apply exclusively. Any contrary conditions or conditions that differ from these General Terms and Conditions and conditions of the Customer that are not regulated in these Terms and Conditions shall only be recognised by the Company if the Company has consented to their applicability in writing. These Terms and Conditions of the Company therefore also apply if the Company, in awareness of contrary, differing or non-regulated conditions from these Terms and Conditions, executes performances towards the Customer without reservations or if the Customer refers to the applicability or its general terms and conditions in its enquiry or its order.
- 1.3. Order quotations and their acceptance must generally be made in writing. The written form is also ensured on electronic data transmission (by fax or email). Any verbal ancillary agreements to a quotation shall only be binding in written form if they are confirmed by the Company in writing. Legally relevant declarations such as contractual amendments, supplements and reports that must be given by the Customer to the Company after the conclusion of a contract (e.g. setting deadlines, reports of defects, declaration of withdrawal or reduction) shall only be effective in writing.
- 1.4. Every acceptance of performance by the Customer effects the unrestricted acceptance of these Terms and Conditions. The possibility of verifying acceptance of the Terms and Conditions in a manner other than accepting the performance remains unaffected.

## 2. Conclusion of contract

- 2.1. Quotations made by the Company are subject to alteration and are non-binding.
- 2.2. Any commissioning by the Customer is, as per section 145 BGB, to be qualified as a binding application to conclude a contract. The Company is entitled to accept the quotation within two weeks of its receipt.
- 2.3. If there is no reaction from the Company within the acceptance deadline, such silence cannot be assessed to be acceptance. The acceptance of a commissioning is only effective if it issued in writing or by email and is signed by an authorised representative of the Company.
- 2.4. After the conclusion of a contract the Customer is not entitled to amend or cancel the commissioning without the agreement of the Company.

## 3. Contents and type of the scope of performance

- 3.1. The performances of the Company can include the following services, depending on the commissioning:
  - Quantitative and/or qualitative inspections,
  - Sampling,
  - Goods and loading checks during handling or storage,
  - Inspections of warehouses, means of transport, tanks, cargo spaces, containers, goods and/or equipment,
  - Laboratory analyses of cereals and feed,that are conducted on the basis of national or international sets of rules and standards and in accordance with the instructions of the Customer.
- 3.2. In its role as an independent third party the Company provides information in the form of findings, measurements, analyses and assessments to the Customer in the form of inspection reports or examination reports.
- 3.3. The written disclosures in the inspection reports or examination reports of the Company reflect exclusively the findings or assessment made at the point in time of the inspection, within the scope of the instructions or guidelines given by the Customer. Examination reports of the Company that relate to analysis results of samples serve exclusively to provide a statement about the sample analysed and do not relate to the remainder of the delivery/batch from which the samples originate.
- 3.4. Should at the wish of the Customer the activity of a third party or intervention against a third party be testified by the Company, the Customer recognises that the Company restricts itself to being present during the respective activity of the third party and to communicate the results, the occurrence of the intervention or confirming the conduct of the activity. The Company is not responsible for the qualification, actions or omissions of third parties. The Company is not responsible for the sampling, the analysis methods applied or analysis results conducted or identified by employees of a third party or the condition, gauging or calibration of test and measurement instruments or apparatus and the equipment used by third parties.
- 3.5. The Company is entitled to assign its services in full or in part to suitable subcontractors it has selected. The Company is entitled to send the information necessary to execute the assigned service to subcontractors. With regards to confidential contents the Company assures that figure 8 also applies to any subcontractors commissioned.
- 3.6. The Customer hereby irrevocably empowers the Company to forward inspection reports and/or examination reports to third parties, if this is demanded from the Customer or at the discretion of the Company arising from the circumstances, commercial use or common practice.
- 3.7. The Company is entitled to determine the methods and/or type of performance provision itself at its discretion, if no other written agreement has been made and insofar as no mandatory regulations stipulate a certain method and/or type of performance provision.

## 4. Obligation to cooperate of the Customer

- 4.1. The Customer is obliged to provide all assistance and cooperation obligations necessary to provide the agreed performance and/or offices on request of the Company without delay, in full and correctly. A request by email is sufficient, a written form is not necessary.  
The Customer shall:
- 4.2. provide the data, documents and information that are required for the orderly conduct of the service in good time and in full.
- 4.3. enable the representatives of the Company access to all premises that are appropriate for the careful conduct of the services.
- 4.4. on request provide free of charge devices, equipment and assistants that are necessary to conduct the service.
- 4.5. ensure that all occupational safety measures necessary for the safety of the representatives of the Company are complied with on its sole responsibility during the conduct of the service.
- 4.6. inform the Company before conducting the service of all known or supposed dangers and risks, regardless of their kind, whether current or potential, that are associated with the analysis of samples, sampling or inspections. This applies in particular to toxic substances, explosive, harmful or radioactive material, environmental pollutants and poisons.
- 4.7. assert or fulfil all rights and obligations towards third parties with whom the service of the Company is connected. If the Customer does not meet these obligations, the Company shall not be liable for any resulting consequences or costs.

## 5. Prices, terms of payment and payment arrears

- 5.1. The receivables of the Company shall be due for payment after the invoice date on the deadline given on the invoice (usually 14 days) for all correctly invoiced performances.
- 5.2. In contrast to any repayment provision, payments of the Customer shall always be applied to the oldest invoice due for payment.
- 5.3. If during conduct of the service any unforeseen impediments or extraordinary additional costs occur, the Company shall have the right to demand an amount from the Customer that covers the extra costs expended for the order.
- 5.4. The Customer shall reimburse the Company for costs as a result of a delay in payment. This applies in particular to lawyer, collection and other legal costs. Statutory regulations apply regarding the conditions and consequences or payment arrears. The claim of the Company to demand interest on commercial arrears (section 353 HGB) from merchants remains unaffected.
- 5.5. The Customer shall have no right of retention to claims of the Company. Claims can only be asserted or set off, if the counterclaims of the Customer are undisputed, recognised by the Company or are legally adjudicated.
- 5.6. If due to circumstances for which it is not responsible the Company is prevented from providing its service in full or in part, it may invoice the Customer the amount of all non-refundable costs that the Company has incurred and the pro rata costs of the services already provided.

## 6. Liability of the Company

- 6.1. The Company is liable in accordance with legal provisions if the Customer asserts claims to compensation that relate to intent or gross negligence, including the intent or gross negligence of representatives or vicarious agents of the Company. Insofar as the Company is not attributed any breach of contract compensation liability is limited to the foreseeable loss typically incurred.
- 6.2. The Company shall only be liable in accordance with legal provisions if the Company culpably breaches a material contractual obligation. Such a breach occurs if the breach of obligations relates to an obligation the fulfilment of which the Customer trusts and also could have trusted. In this case compensation liability is also limited to the foreseeable loss typically incurred.
- 6.3. Liability due to culpably causing death, personal injury or impairment to health remains unaffected. This also applies to any mandatory legal liability including in accordance with the German Product Liability Act.
- 6.4. Insofar as nothing the contrary is regulated in the preceding any liability of the Company is excluded. This applies, for example, to the liability of the Company due to simple negligence when breaching non-material contractual obligations.
- 6.5. The liability of the Company and of its vicarious and performing agents for losses of any kind, regardless of the cause, is restricted the lowest of the following amounts:
  - Ten times the payment for the service the execution of which led to a loss.
  - In the event of several cases of loss related to the same customer within one calendar year: maximum 50,000 EUROS.
  - Every lower amount on which the Company and the Customer have agreed in the agreement or in any other contract.When determining the amounts of claims to compensation made against the Company, in particular the financial circumstances, the type, scope and duration of the business relationship with the Company and any contribution of the Customer to the cause or culpability shall be taken into account in accordance with applicable legal regulations appropriately in favour of the Company. In particular, compensation payments, costs and expenses that are culpably to be borne by the Company shall be in an appropriate relationship to the payment.
- 6.6. The Company shall act neither as an insurer nor a guarantor and rejects any responsibility in this connection. The Customer must insure themselves at their own costs, if applicable, in order to insure against any losses or damage.
- 6.7. The Company shall not be liable for indirect or consequential losses, in particular not for loss of profit, loss of business, loss of a business opportunity or reduction in the value of the business. Further the Company shall not be liable for any costs, losses or damage that could be incurred due to the claims of third parties.
- 6.8. The Company shall not be liable for delayed services or services not provided in full or in part if this relates directly to incidents outside the control of the Company (in particular force majeure and the obligations of the Customer set in figure 3).
- 6.9. In the event of claims to compensation the Customer shall report these to the Company in writing within thirty days of discovery of the circumstances causing the loss. If the legal conditions for claims for defects are met and the Terms and Conditions do not contradict any claims for defects, claims for defects shall lapse within one year from the start of the legal period of limitations.

## 7. Copyrights to the inspection reports and examination reports, intended use; claim to indemnification from third party claims

- 7.1. All copyrights to performances provided by the Company for the Customer such as inspection results, examination reports, calculations, presentations and other details remain with the Company. The Customer is permitted to use these performances provided only after payment in full for the agreed purpose.
- 7.2. The Customer is, however, not permitted to amend, process or use only extracts of the inspection reports or examination reports. Any forwarding of inspection reports and/or examination reports to public agencies or authorities is admissible insofar as this is stipulated in accordance with the agreed purpose or in accordance with the law. The publication in full or in part of the inspection reports and/or examination reports requires the written consent of the Company.
- 7.3. The inspection reports and examination reports provided by the Company to the Customer shall be drawn up on the basis of information, documents and/or samples from the Customer or transferred on its behalf and serve exclusively for the use of the Customer. The Customer shall draw the required conclusions from these on its own responsibility.
- 7.4. The Customer shall indemnify the Company and its employees, representatives and subcontractors from every claim to compensation of third parties in connection with the provision or alleged non-provision of services in accordance with the instructions of the Customer or actions or omissions that have been made on the basis of inspection reports and examination reports.

## 8. Secrecy and data protection

- 8.1. The Company is obliged to treat the information received or derived from the same from the Customer confidentially unless this information is publicly known or if it were already known to the Company before the issue of the order. The Company is obliged to protect the confidential information of the Customer with at least the same care against disclosure to third parties, use by third parties or publication that the Company applies to protect its own confidential information of the same importance.
- 8.2. The Company shall not use the confidential information of the Customer for any other purposes than provision of the performances owed by the Company unless the Customer has consented to such other use in writing.
- 8.3. The Company shall only make confidential information of the Customer accessible to subcontractors that it has carefully selected and are suitable if these subcontractors are correspondingly obliged to retain secrecy.
- 8.4. The Company shall only forward confidential information to such employees and authorised persons for whom the disclosure of or access to the confidential information is necessary for the provision of their performances and who are correspondingly obliged to retain secrecy.
- 8.5. The Company is entitled to transmit inspection reports and/or examination reports and other information to the Customer by email if the Customer does not explicitly contradict this. The Customer is aware that such a transmission is not encrypted and is therefore not confidential, that such transmissions can be read and intercepted by third parties and that the electronic version of an inspection report and/or examination report and also other information can be modified. The Company shall not be liable for any losses that occur from or in connection with email transmissions of such information.
- 8.6. If nothing is agreed to the contrary the secrecy obligations as per this figure 8 apply respectively for a period of two years from the point in time at which the Customer made the relevant confidential information accessible to the Company.
- 8.7. There shall be no obligation to retain secrecy as per this figure 8 in the following cases:
  - The Company is ordered to disclose confidential information by a court of law or is legally obliged to do so,
  - The Customer breaches material contractual obligations or
  - If it regulated in these Terms and Conditions or is otherwise agreed that there is no obligation to retain secrecy,
  - The Company demonstrably received the confidential information from third parties that are not obliged to retain secrecy or this information is publicly known.

## 9. Miscellaneous

- 9.1. These General Terms and Conditions have been drafted in German. If there are any differences between the English and German versions the German version shall take precedence.
- 9.2. Any amendments to or supplements of these General Terms and Conditions must be made in writing. This also applies to any amendment or cancellation of this clause.
- 9.3. Should any provisions of these General Terms and Conditions be or become ineffective in full or in part or are found to be impracticable this shall not affect the validity or practicability of the remaining provisions.
- 9.4. All disputes that arise from the contractual relationships with reference to these General Terms and Conditions are subject to the application and interpretation of the law of the Federal Republic of Germany under the exclusion of any conflict of laws provisions. The exclusive court of jurisdiction for all disputes, insofar as the Customer is a merchant, legal entity under public law or separate legal entity under public law, is Hamburg. The Company is optionally entitled to file a suit against the Customer at its general court of jurisdiction.