

# General Terms and Conditions of Sale and Delivery of Seeds of Strube Research GmbH & Co. KG, Söilingen

## I. Scope of Application

1. These General Terms and Conditions of sale and delivery ("**General terms**") apply to all sales and deliveries of seeds of Strube Research GmbH & Co. KG ("**Strube Research**"), Söilingen, to any customer ("**Buyer**"). The Conditions only apply if the Buyer is an entrepreneur (§ 14 German Civil Code) or a legal entity under public law.
2. The Conditions of Strube Research shall apply exclusively. Any conflicting or differing terms and conditions of the Buyer shall not apply and are herewith rejected unless Strube Research expressly agreed in writing only.
3. On a case-by-case basis the Parties may agree on any modification of these Terms and Conditions in writing only. This also applies to amendments to the written form.

## II. Order and Confirmation of Order

1. The Buyer orders the seeds with Strube Research. The order must include: details of ordered varieties as well as its configuration, number of ordered units, purchase price, payment conditions, delivery address and complete name/company of Buyer.
2. Strube Research confirms to the Buyer the received order electronically, in writing or by facsimile within two weeks after receipt.
3. The purchase agreement comes into effect with such confirmation from Strube Research to the Buyer. The receipt of the confirmation by the Buyer is significant.

## III. Delivery

1. Strube Research packages and hands over the ordered seeds to a shipping company for delivery to the address given by the Buyer. Strube Research bears the costs of packaging. The Buyer bears any other expenses.

## IV. Purchase Price and Due Date

1. Strube Research invoices the purchase price and the costs for delivery at the delivery of the seeds. VAT will be added as applicable. All prices are net prices plus the relevant applicable value added tax.
2. Invoices of Strube Research are due immediately upon receipt of the invoice or upon the due date stated in the invoice.
3. The Buyer shall be entitled to offset only insofar as the Buyer's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement.

## V. Retention of Title, Chattel Mortgage

1. Title to each delivery shall only pass to the Buyer after complete payment of the purchase price for such delivery as well as after payment of possible outstanding invoices from earlier deliveries. Checks and promissory notes shall only be accepted in lieu of payment.
2. Seeds, delivered under reservation of title, may only be used or passed by the Buyer within regular business operations and may only be resold under extended reservation of title.
3. The Buyer shall handle the seed with due care, protect it and maintain suitable insurance for the seed.
4. The Buyer may resell seeds subject to the above retention of title only in the course of his regular business. For this case, the Buyer hereby assigns all claims arising out of such resale, whether the seed have been processed or not, to Strube Research.
5. Notwithstanding the right of Strube Research to claim direct payment the Buyer shall be entitled to receive the payments on the assigned claims. Strube Research will not demand payment on the assigned claims to the extent the Buyer complies with all his obligations for payment and does not become subject to an application for insolvency or similar proceedings or to any stay of payments. Whereas in such a case Strube Research is enabled to demand the Buyer for all the necessary information about the assigned claims and the debtors and to demand the receipt of the documents and that the Buyer informs the debtors about the assignment. In these cases Strube Research is enabled to revoke the power of the Buyer to resell and process the seeds.
6. In case of bankruptcy, petition for judicial settlement or insolvency proceedings regarding the assets of the Buyer, the buyer is obligated to immediately inform Strube Research in written form. Strube Research is entitled to notify customers of the Buyer of its extended reservation of title by Strube Research. The same applies if the Buyer defaults on payment.
7. The crops from seeds, delivered by Strube Research, shall be considered as chattel mortgage to Strube Research from the moment of harvesting until the complete payment of all accounts receivable from this business relationship.
8. All accounts receivable of the Buyer arising from resale of the seeds shall be assigned to Strube Research for security reasons, from conclusion of the contract to complete payment of all accounts receivable from this business relationship.
9. As far as legally possible at the seed's destination and if the Buyer is the final customer, the Buyer assigns to Strube Research the plants, grown of the seeds delivered by Strube Research as security from the separation of the plants from the ground on until all receivables from the business relationship between Strube Research and the Buyer are paid in total.

10. Strube Research is obligated to release the securities insofar as the securities exceed the secured claim by more than 10 % and the Buyer requests so. Strube Research is entitled to choose the securities being released.

## VI. Quality of Seeds

1. The seeds are unmixed species and genuine. The seeds comply with the requirements of applicable law for breeding, production and marketing of seeds as well as comply with the requirements for quality of seeds according to the regulations under the German Seed Marketing Act and its regulations in the respective applicable version.
2. Strube Research explicitly does not guarantee, that the seeds are free of genetically modified organisms.

## VII. Defects and remedy of defects

1. The Buyer shall inspect the seeds without undue delay, at the latest upon delivery, and shall give written notice to Strube Research of obvious defects without undue delay, at the latest within 2 weeks after receipt of delivery. In case of defects not obvious immediately, the Buyer shall give written notice to Strube Research without undue delay, at the latest within 2 weeks after the Buyer became aware of these defects. The date of receipt of such notice of defects by Strube Research shall be relevant for its timeliness.
2. The acceptance of the goods will be performed by a representative of the Buyer in the presence of a representative of the supplier or freight carrier immediately after arrival of the goods at the place of destination. In case of identified deviation from the agreed quantity or quality of the delivered seed, a protocol has to be created in which the identified defects are listed and described exactly. The protocol shall be created by a representative of the Buyer and a representative of Strube Research or the freight carrier. Depending on the identified defects, written down in that protocol, claims can be made.
3. Claims for defects, incurred before passing of risk, can be made within two (2) month since passing of risk. The claim of defects after passing of risk is excluded unless opposing agreed.
4. In case of defects where Strube Research is responsible for, Strube Research will at its own choice provide substitute delivery or substitute improvement provided the claim was raised on time. Not until substitute delivery or substitute improvement failed the Buyer is entitled to demand a reduction, withdraw from the contract and claim damages according to legal regulations.

## VIII. Liability

1. Strube Research is liable for its own fault or faults of its agents or assistants in performance just in case of intent or gross negligence as well as in case of breach of fundamental contractual obligations.
2. To the extent the breach of contract is unintentionally the liability for damages shall be limited to the typically predictable damage.
3. The liability for culpable damage to life, body or health as well as the liability under the Product Liability Act shall remain unaffected.
4. Further liability of Strube Research is excluded.

## IX. Force majeure

1. If the contractual duties cannot be fulfilled wholly or partially because of a specific unavoidable and unforeseen event ("**Force majeure**"), the contractual rights and duties will be suspended, unless agreed otherwise below. Among others, fire, natural disasters, war, embargos, export or import bans or strikes belong to such an event.
2. The affected party shall inform the other party immediately about the occurrence and the omission of Force majeure, and has to try at its best to solve Force majeure as well as to limit its impacts.
3. In the event of force majeure the parties will coordinate the further procedure and decide whether the goods which have not been delivered have to be delivered in addition after the ending of force majeure. Regardless of this the parties are enabled to cancel the order if force majeure takes more than two weeks since the agreed date of delivery.

## X. Limitation

The limitation period for any claims arising from quality defects and defects of title shall be one year from date of delivery. This also applies to claims for damages by the Buyer unless the application of the limitation period provided by law (§§ 195, 199 German Civil Code) would result in a shorter limitation period.

## XI. Agreement on jurisdiction

Place of jurisdiction is Brunswick (Braunschweig) in Lower Saxony, Germany. Strube Research is entitled to sue the Buyer at his place of business.

## XII. Applicable law

The applicable law shall exclusively be the laws of the Federal Republic of Germany. UN Law on international Sales as well as international uniform law shall not be applicable.

## XIII. Severability clause

Should one or more of these conditions be or become ineffective, all remaining terms and conditions shall remain in force.

Söilingen, July 2018