BIOFA Naturprodukte W. Hahn GmbH - Dobelstraße 22 - 73087 Bad Boll

General Terms and Conditions (GTC) for commercial transactions

1. General information, scope of application

1.
All deliveries, services and offers provided by BIOFA Naturprodukte W. Hahn GmbH, Dobelstr. 22, 73087 Bad Boll, Germany (hereinafter referred to as 'BIOFA') are based exclusively on these General Terms and Conditions (hereinafter referred to as 'GTC'). These are an integral part of all contracts that BIOFA concludes with its contractual partners (hereinafter referred to as 'customers') for the deliveries or services it offers. They also apply to all future transactions with the customer, even if they are not agreed separately again.

2.
These General Terms and Conditions apply only to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB).

3.
Unless otherwise agreed in writing, these General Terms and Conditions apply exclusively to all legal transactions. The customer accepts these terms and conditions by placing an order or accepting delivery. Any deviating terms and conditions or counter-confirmations by the customer that have not been expressly accepted in writing by BIOFA are non-binding, even if BIOFA does not expressly object to them.

2. Offer and conclusion of contract

1.
Offer letters from BIOFA are subject to change and non-binding unless they are expressly marked as binding or contain a specific acceptance period. Offer letters from BIOFA are therefore generally considered invitations to submit an offer and only become binding once they have been confirmed in writing by BIOFA.

2.
Information in brochures, catalogues and technical documentation is non-binding; in particular, it does not exempt the customer from conducting their own tests.

3.
Information provided by BIOFA regarding the subject matter of the delivery or service (e.g. weights, shape, colour, dimensions, utility values, load-bearing capacity, tolerances and technical data) as well as representations thereof (e.g. drawings and illustrations) are only approximate unless exact conformity is required for the contractually intended purpose. They are not guaranteed characteristics, but descriptions or identifications of the delivery or service. Deviations that are customary in the trade and deviations that are due to legal regulations or represent technical improvements are permissible, provided they do not impair the usability for the contractually intended purpose.



4.
Paragraphs 1-5 apply accordingly to the presentation of products and information on the ordering platform ('web shop') provided by BIOFA.

5.
In principle, the order placed by the customer constitutes an offer to conclude a contract. All information relevant to the execution of the order must be provided in the order. Missing, incorrect or incomplete information shall be deemed expressly not agreed and shall not give rise to any obligations on the part of BIOFA with regard to claims for performance, warranty or damages.

6.
Orders should be placed in writing or via the web shop provided by BIOFA, but may also be placed by telephone or other electronic means at the customer's risk.

7.
BIOFA shall accept the order within 10 working days of receipt of the order by means of an order confirmation, unless another acceptance period is specified, or by delivering the goods to the customer.

8.
Upon confirmation of the order by BIOFA, the contract shall be deemed to have been concluded in accordance with the content of the confirmation, even if its content differs from that of the order, provided that the customer does not immediately object to the order confirmation.

9.
BIOFA reserves ownership rights and copyrights to cost estimates, drawings and other documents; they may not be made accessible to third parties. BIOFA is the copyright holder of the design of the labels and brochures. They may only be used with the written consent of BIOFA.

10.
The contract is concluded subject to correct and timely delivery by BIOFA's suppliers. This only applies in cases where BIOFA is not responsible for the non-delivery, in particular when a congruent covering transaction has been concluded with BIOFA's supplier. The customer will be informed immediately of the non-availability of the service. The consideration shall be refunded immediately.

3. Changes

1.
If, after conclusion of the contract, the customer wishes to make changes to the delivery or service item, this requires a separate contractual agreement.



2.
If the customer withdraws an order placed before conclusion of the contract, BIOFA shall be entitled, without prejudice to the possibility of claiming higher actual damages, to charge 10% of the delivery or service price for the costs incurred in processing the order and for lost profits. The customer reserves the right to prove that the damage was less.

3.
In the event of mutually agreed changes to the subject matter of the contract, delivery or service deadlines or dates shall be renegotiated.

4. Delivery and delivery time

1.
Deliveries are made 'ex works' in accordance with the EXW clause of INCOTERMS 2020.
At the customer's request and expense, the goods will be shipped to another destination (sale by delivery). BIOFA shall decide on the method of shipment (in particular the transport company, shipping route and packaging), unless the customer specifies a particular method of shipment. The shipping and payment terms and conditions apply, available at: https://www.biofa-de.com/87/versand.

2.
If BIOFA gives delivery and service deadlines and dates, these are always approximate unless a fixed deadline or date has been expressly promised or agreed. If shipment has been agreed, delivery deadlines and dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with transport.

3.
The delivery period shall not commence before the customer has provided any necessary documents, approvals, releases, etc., and before receipt of any agreed advance payment.

4.
The customer is entitled to withdraw from the contract if BIOFA is responsible for failing to meet a fixed delivery date and a reasonable grace period has expired without success.

5.
BIOFA is entitled to deliver the agreed goods or services before the agreed time. Partial deliveries or services are permissible and may be invoiced separately.



5. default of acceptance

1.
If the customer does not accept the goods on a permissible/agreed delivery date or at the end of the agreed delivery period due to circumstances for which they are responsible, BIOFA may charge storage costs of 0.5% for each month or part thereof, up to a maximum of 5% of the delivery or service price. The contracting parties are free to provide evidence of higher or lower storage costs. BIOFA is authorised to determine a suitable storage location at the customer's expense and risk and to insure the delivery items or services.

2.
If BIOFA is entitled to claim damages instead of performance, BIOFA may, without prejudice to the possibility of claiming higher actual damages, claim 15% of the price as damages. The customer reserves the right to prove that the damage was less.

6. Force majeure

1.
BIOFA shall not be liable for impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events that were not foreseeable at the time of conclusion of the contract (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of energy or raw materials, official measures or the failure of suppliers to deliver, or to deliver correctly or on time) for which BIOFA is not responsible. If such events make delivery or performance significantly more difficult or impossible for BIOFA and the hindrance is not only temporary, BIOFA is entitled to withdraw from the contract. In the event of obstacles of a temporary nature, the delivery or performance deadlines or dates shall be extended or postponed by the period of the hindrance plus a reasonable start-up period.

2.
If, as a result of the delay, the customer cannot reasonably be expected to accept the delivery or service, they may withdraw from the contract by immediately notifying BIOFA in writing.

3.
If BIOFA can foresee that the goods cannot be delivered within the delivery period, the customer will be notified immediately in writing, the reasons for this will be communicated to the customer and, if possible, the expected delivery date will be stated.

7. Terms of payment

1.
Unless otherwise agreed, the agreed prices are in EURO ex works plus statutory value added tax, customs, freight,



packaging and transport insurance costs. Import and export duties will be charged separately. BIOFA will only insure the goods to be shipped at the customer's request and expense.

2.
Rechnungsbeträge sind sofort ohne jeden Abzug zu bezahlen. Maßgebend für das Datum der Zahlung ist der Eingang bei BIOFA. Im Falle der Nichtzahlung gerät der Kunde mit Fälligkeit ohne weitere Mahnung in Verzug. Skonti und Rabatte werden nur nach gesonderter Vereinbarung gewährt.

3.
BIOFA expressly reserves the right to accept bills of exchange or cheques. Bills of exchange and cheques are only accepted on account of performance subject to BIOFA's approval and are only considered payment once they have been credited without reservation. Discount charges and bill of exchange costs shall be borne by the customer.

4.
If BIOFA has several outstanding claims against the customer and the customer's payments are not made against a specific claim, BIOFA shall be entitled to determine against which of the outstanding claims the payment has been made.

5.
The buyer shall be in default upon expiry of the payment period. If reminders are necessary after expiry of the payment period, the costs incurred as a result shall be charged to the customer.

6.
In the event of late payment, deferral or partial payment, BIOFA is entitled to charge interest on arrears at a rate of 9 percentage points above the respective base rate and to withhold further services until all outstanding invoices have been settled. BIOFA reserves the right to claim higher damages.

7.
In the event of justified doubts about the customer's solvency or creditworthiness, e.g. in the event of late payment, slow payment, etc., BIOFA shall be entitled to demand advance payment or suitable security for the service to be provided by the customer. If the customer is not prepared to do so, BIOFA is entitled to withdraw from the contract after a reasonable grace period and to claim damages for non-performance.

8.
The customer may only offset counterclaims or withhold payments due to such claims if the counterclaims are undisputed or have been legally established.

9.
Any payment terms granted shall cease to apply and outstanding claims shall become due for payment immediately if insolvency proceedings are initiated against the customer's assets, if the customer has provided inaccurate information about their creditworthiness, or if there are other justified doubts about the customer's solvency or creditworthiness.



10.
If VAT is not included in BIOFA's invoice based on information provided by the customer (e.g. for 'intra-Community deliveries' within the meaning of Sections 4 No. 1b in conjunction with 6a UStG) and BIOFA is subsequently charged with a VAT liability (Section 6a IV UStG), the customer is obliged to pay the corresponding amount to BIOFA. This obligation exists regardless of whether BIOFA subsequently has to pay value added tax, import value added tax or comparable taxes in Germany or abroad.

8. Place of performance, transfer of risk, packaging

1.
The place of performance for the services ordered is the registered office of BIOFA or the external and/or forwarding warehouse where the goods are made available. Unless otherwise agreed, the customer shall collect the goods from the registered office after notification of availability. The place of performance and fulfilment of the contractual obligations owed by the customer is always the registered office of BIOFA's commercial branch.

2.
The risk of accidental loss and accidental deterioration of the goods, as well as loss or damage to the goods, shall pass to the customer upon notification of the goods being ready for collection.

3.
If shipping has been agreed, the risk of accidental loss and accidental deterioration of the goods, as well as loss or damage to the goods, shall pass to the customer upon dispatch of the goods or handover to the contracted transport company.

4.
Packaging and loading aids, such as pallets, are provided by BIOFA for use only. They must be returned within 30 days of the actual delivery date in undamaged condition and carriage paid, at BIOFA's discretion, to the registered office of the commercial branch or to an external and/or forwarding warehouse. If this is not done, BIOFA is entitled to charge a daily usage fee of EUR 0.50 plus statutory VAT per piece of packaging and/or loading equipment provided from the 31st day after delivery. However, the total usage fee payable shall in no case exceed EUR 25 plus statutory VAT. Disposable packaging must be disposed of properly by the customer.

5.
Additional costs for a faster shipping method requested by the customer shall be borne by the customer. This also applies if it was agreed in individual cases that the freight costs would be borne by BIOFA.

9. Obligation to inspect and give notice of defects



1.
The delivered items must be carefully inspected immediately after delivery to the customer or to a third party designated by the customer.

2.
In the event of damage or loss of goods during transport, an inventory must be taken immediately and BIOFA must be notified. Claims for any transport damage must be made by the customer to the carrier without delay.

3.
The delivered items shall be deemed to have been delivered in accordance with the contract if BIOFA does not receive a written notice of defects regarding obvious defects or other defects that were apparent upon immediate and careful inspection within seven (7) working days after delivery of the delivery item, otherwise within seven (7) working days after discovery of the defect or at any earlier point in time at which the defect was recognisable to the customer during normal use of the delivery item without closer inspection.

4.
At BIOFA's request, the rejected delivery item must be returned to BIOFA carriage paid. After consulting with BIOFA about the most cost-effective shipping method, BIOFA will reimburse the costs if the complaint is justified; this does not apply if the costs increase because the delivery item is located at a place other than the place of intended use.

10. Defects in title and defects in quality

1.
In the event of a defect in goods or services supplied by BIOFA, BIOFA shall be entitled, at its own discretion, to repair, replace or issue a credit note. This shall not apply to recourse claims pursuant to Sections 445a and 445b of the German Civil Code (BGB) if the last contract in the supply chain is a consumer goods purchase.

2.
The rectification may also be carried out by the customer after consultation with BIOFA. Claims by the customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded if the expenses increase because the goods were subsequently moved to a location other than the customer's branch office.

3.
Special mixtures of RAL, NCS or colour shades that are not part of the standard BIOFA range cannot be exchanged or returned.

11. credit notes



If BIOFA grants the customer a credit note, this can only be offset against the order value of a future order. It does not entitle the customer to a cash payment.

12. Liability

1.
BIOFA's liability for damages, regardless of the legal basis, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tort, is limited in accordance with this clause 12, insofar as fault is relevant in each case.

2.
The limitations of this Section 12 do not apply to BIOFA's liability for intentional conduct, for guaranteed characteristics, for injury to life, limb or health, or under the Product Liability Act.

3.
BIOFA shall not be liable in the event of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents, unless this constitutes a breach of essential contractual obligations. Essential obligations are the obligation to deliver the delivery item on time, its freedom from legal defects and material defects that impair its functionality or usability to a more than insignificant extent, as well as advisory, protection and care obligations that are intended to enable the customer to use the delivery item in accordance with the contract or that are intended to protect the life and limb of the customer's personnel or to protect the customer's property from significant damage.

4.
Insofar as BIOFA is liable for damages on the basis of the preceding paragraph, this liability shall be limited to damages which BIOFA foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or which should have been foreseen with the exercise of reasonable care. Indirect damage and consequential damage resulting from defects in the delivery item shall also only be eligible for compensation if such damage is typically to be expected when the delivery item is used as intended.

5.
In the event of liability for simple negligence, BIOFA's obligation to pay compensation for property damage and any resulting further financial losses shall be limited to an amount of EUR 15 million per claim (corresponding to the current sum insured under its product liability insurance or liability insurance), even if this involves a breach of essential contractual obligations.

6.
The above exclusions and limitations of liability apply to the same extent in favour of BIOFA's organs, legal representatives, employees and other vicarious agents.



7.
Insofar as BIOFA provides technical information or advice and this information or advice is not part of the contractually agreed scope of services owed by BIOFA, this shall be provided free of charge and to the exclusion of any liability.

8.
If the customer takes recourse against BIOFA due to third-party claims, BIOFA's liability shall be excluded insofar as the customer has effectively limited its liability towards its customer. BIOFA's liability for recourse claims shall be excluded insofar as these exceed the statutory claims for defects and damages based on an agreement between the customer and its customer.

9.
The customer is obliged to notify BIOFA immediately in writing of any claims asserted by third parties and to reserve all defence measures and settlement negotiations for BIOFA.

13. Statute of limitations

1.
In the cases of Sections 438 (1) No. 2, §§ 479 and 634a (1) No. 2 BGB, as well as in cases of intent, fraudulent concealment of a defect, claims for damages due to personal injury or deprivation of liberty, claims under the Product Liability Act and grossly negligent breach of duty, the statutory limitation periods shall apply to the customer's claims. This also applies to recourse claims pursuant to Sections 445a, 445b BGB, provided that the last contract in the supply chain is a consumer goods purchase. Otherwise, the limitation period for claims and rights due to defects in BIOFA's products, services and work, as well as the resulting damages, is one year.

2.
Nacherfüllungsmaßnahmen hemmen weder die für die ursprüngliche Leistungserbringung geltende Verjährungsfrist, noch lassen sie die Verjährung neu beginnen.

14. Retention of title

1.
The following provisions serve to secure all existing and future claims of BIOFA against the customer arising from the business relationship between them.

2.
The goods delivered by BIOFA to the customer remain the property of BIOFA until all secured claims have been paid in full. The goods and the goods replacing them in accordance with the following provisions, which are covered by the retention of title, are hereinafter referred to as 'reserved goods'.



3.
The customer shall store the goods subject to retention of title free of charge for BIOFA. The customer is obliged to treat the goods with care. If maintenance and inspection work is necessary, the customer must carry this out regularly at their own expense.

4.
The customer is entitled to process and sell the goods subject to retention of title in the ordinary course of business until the event of realisation occurs. Pledging and transfer by way of security are not permitted.

5.
In the event of resale of the goods subject to retention of title, the customer hereby assigns to BIOFA any claims against the purchaser arising from such resale. The same applies to other claims that replace the goods subject to retention of title or otherwise arise in relation to the goods subject to retention of title, such as insurance claims or claims arising from tort in the event of loss or destruction. BIOFA revocably authorises the customer to collect the claims assigned to BIOFA in their own name. BIOFA may only revoke this authorisation to collect in the event of realisation.

6.
If third parties access the goods subject to retention of title, in particular by way of enforcement, the customer shall immediately inform them of BIOFA's ownership and notify BIOFA thereof in order to enable it to enforce its property rights. At BIOFA's request, the customer shall provide all necessary information about the inventory of goods subject to retention of title and about the claims assigned to BIOFA, and shall inform its customers of the assignment. The customer shall support BIOFA in all measures necessary to protect BIOFA's ownership of the goods subject to retention of title and shall bear the resulting costs.

7.
BIOFA shall release the goods subject to retention of title and the items or claims replacing them if their value exceeds the amount of the secured claims by more than 20%. BIOFA shall be responsible for selecting the items to be released.

8.
If BIOFA withdraws from the contract due to breach of contract by the customer – in particular default of payment – (event of realisation), BIOFA shall be entitled to demand the return of the goods subject to retention of title.

9.
The customer's right to dispose of goods subject to BIOFA's retention of title and to collect claims assigned to BIOFA shall expire as soon as the customer fails to meet their payment obligations and/or an application is made to open insolvency proceedings. In the aforementioned cases, as well as in the event of other conduct by the customer that is in breach of contract, BIOFA is entitled to take back the goods delivered under retention of title without issuing a reminder.



10.
The processing and treatment of the goods subject to retention of title by the customer shall always be carried out in the name and on behalf of BIOFA. If processing is carried out with items not belonging to BIOFA, BIOFA shall acquire co-ownership of the new item in proportion to the value of the item delivered by BIOFA to the value of the goods delivered by BIOFA to the other processed items. The same shall apply if the goods are mixed with other items not belonging to BIOFA.

15. Confidentiality

1.
The customer undertakes to treat all aspects of the business relationship that are worthy of protection as confidential.

2.
Reproduction of the documents provided to the customer is only permitted within the scope of operational requirements and copyright provisions.

16. Final provisions

1.
If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – including international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of BIOFA in Bad Boll. The same shall apply if the customer is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB). However, BIOFA is also entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these General Terms and Conditions or a prior individual agreement, or at the customer's general place of jurisdiction. Overriding statutory provisions, in particular those relating to exclusive jurisdiction, remain unaffected.

2.
Business relations with the customer shall be governed exclusively by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

3.
Should individual parts of these General Terms and Conditions be invalid for commercial transactions, this shall not affect the validity of the remaining provisions. The contracting parties shall endeavour, taking into account the interests of both parties, to agree on an individual clause that comes as close as possible to the economic purpose and legal meaning of the original wording.



Note:
The customer acknowledges that BIOFA stores data from the contractual relationship for the purpose of fulfilling the contract in accordance with Art. 6 of the General Data Protection Regulation (GDPR) and reserves the right to transfer the data to third parties, such as insurance companies, insofar as this is necessary for the fulfilment of the contract.

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As of 24 September 2025

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