

General Terms and Conditions for the Marketing of Beef Cattle of the Registered Cooperative 'Verein Ostfriesischer Stammviehzüchter eG'

General information

1. Verein Ostfriesischer Stammviehzüchter eG (hereinafter referred to as VOST), Zu den Feldstücken 1, 26605 Aurich-Schirum, sells or auctions black-and-white, red-and-white and beef cattle in its own name for the account of third parties (transaction on a commission basis within the meaning of Sections 383 et seq. of the German Commercial Code [HGB]). Sales are conducted through auctions as well as through sales in auction halls, at collection points or on the principals' farm (farm-gate sales).
 - 1.1. These General Terms and Conditions apply exclusively to all livestock transactions.
 - 1.2. The animals offered for sale have undergone changes since birth due to different housing conditions, rearing conditions, feeding, veterinary treatment and vaccinations as well as other influences and are no longer in their original condition. They shall therefore be legally classified as used goods.
 - 1.3. All buyers, visitors and other participants in VOST events are liable for any damage caused by them, their agents or their animals.
 - 1.4. The instructions of VOST employees must be followed at all VOST events.
 - 1.5. VOST reserves the right to change the course of sales events.
 - 1.6. Each principal and buyer is bound by any bid made. Withdrawal from a bid or rescission of a contract is permitted only where expressly agreed or where legally permissible.
 - 1.7. Risk and liability for the animals sold shall pass to the buyer upon acceptance of the purchase offer (acceptance of the purchase offer by the buyer), unless expressly agreed otherwise (e.g. export transactions, sales involving a forwarding agreement, etc.). Transfer of ownership shall take place only upon full payment of the purchase price. If the buyer arranges or commissions the vaccination of the livestock or if the livestock is placed in a commission barn at the buyer's request, the livestock may not remain in the barn of origin and the buyer shall also bear the risk of accidental loss of the purchased animal during the transport relating to the shipment and during accommodation in the commission barn. The buyer also assumes liability for any damage caused by the animal and/or any risks posed by the animal during this period.
 - 1.8. In this respect, the buyer is free to decide whether to take possession of the animal themselves directly after purchase or to leave the animal in the respective barn until it is removed after the auction. In the latter case, however, the risk of deterioration or destruction is nevertheless transferred to the buyer with the buyer's decision to leave the animal in the barn.

- 1.9. In the case of lactating animals, the principal must ensure that the interval between the last milking before sale does not exceed 15 hours, in accordance with the dairy cow guidelines. At the auction, lactating animals must be milked out by the principal or the authorised attendant directly after the sale.
- 1.10. Only persons expressly authorised by VOST are entitled to remove the animals.
- 1.11. As commission agent, VOST fulfils the obligations applicable to that function under the provisions of the Livestock Transport Ordinance [VVVO] It is not responsible for the obligations arising in upstream and downstream stages.
- 1.12. VOST is authorised to take over the animals itself as buyer. It is bound to the agreed price.
- 1.13. In the case of purchases made by VOST itself from the principal, VOST shall be entitled to withdraw from the purchase within 4 weeks of taking possession of the livestock without setting a cure period if it transpires that the livestock does not possess the characteristics stipulated in these GTC. After expiry of these 4 weeks, the statutory provisions shall apply or, where different, the warranty rights under these GTC shall apply.
- 1.14. Agreed delivery dates are binding, partial deliveries are permitted.
- 1.15. Decision-making authority of VOST:

The principal and buyer authorise VOST to enforce all claims arising from purchase transactions against the buyer and principal.

If an amicable dispute resolution facilitated by VOST fails, VOST shall be entitled, but not obliged, to take legal action in its own name against the other party (principal or buyer), but may alternatively refer the parties themselves to legal proceedings.

- 1.16. The place of performance and jurisdiction for all claims arising from sales transactions and all related claims is Aurich. VOST does not participate in dispute resolution proceedings before a consumer arbitration board and is not obliged to do so.
- 1.17. The principal shall be liable to VOST for the existence of these characteristics in the livestock and for any absence thereof. In particular, the principal shall compensate VOST for any damage incurred by VOST as a result of the absence of such characteristics.

2. Invoicing, payment and retention of title

- 2.1. The purchase price plus commission fees and ancillary costs (final purchase price) shall be due upon conclusion of the purchase contract.

- 2.2. The invoice amount is to be paid to VOST in accordance with the invoice. Costs and interest arising from the place and method of payment shall be borne by the buyer. Cheques or other non-cash means of payment shall be deemed as payment only once they have been irrevocably credited to VOST's account.
- 2.3. If the Customer fails to make payment within the 10-day payment period, VOST eG shall be entitled to charge default interest at 9% above the applicable discount rate of the ECB in accordance with Section 288 (2) of the German Civil Code [BGB]. Furthermore, VOST eG shall be entitled to charge a reminder fee of 5.00 euros per reminder sent.
- 2.4. If and to the extent that the Customer is in default of payment, VOST eG shall be entitled to make further performance dependent on advance payment.
- 2.5. The transfer of ownership of all animals supplied by VOST is subject to the condition precedent of full payment of the purchase price. If the buyer is a merchant, this retention of title shall apply until all claims arising from the entire business relationship with VOST have been satisfied in full.

If the value of the goods secured by the retention of title exceeds the value of the outstanding claims by more than 20% (over-collateralisation), the retention of title shall lapse with respect to the goods to the extent of such over-collateralisation.

- 2.6. In the event of processing by the buyer, the principal shall be deemed the manufacturer. The buyer is not permitted to transfer the livestock to a third party for the purpose of processing prior to the transfer of ownership. If the goods are sold to a third party, the buyer shall also be contractually obliged to prohibit such third party from processing the goods or transferring them for processing. If processing is nevertheless carried out by third parties, the buyer shall be liable to VOST for any damage incurred by VOST as a result of the (proportionate) transfer of ownership associated with such third-party processing.
- 2.7. The buyer is authorised to sell and process the goods subject to retention of title in the ordinary course of business until revoked, provided the buyer is not in default of payment. In the event of an existing delay in payment, the sale and processing of the goods shall require the consent of VOST. Pledges and transfers by way of security as well as all other measures impairing the principal's security interest are not permitted. The buyer hereby assigns to VOST, as seller and by way of security, all claims arising from the resale and processing of the purchased item, or arising on any other legal basis with respect to the purchased item, either in total or in the amount of the respective payment arrears.
- 2.8. To secure VOST's claims arising from the sale of livestock, the buyer hereby assigns to VOST all existing and future claims against third parties arising to the buyer from the resale of livestock purchased from VOST. VOST is obliged to reassign claims to the buyer at its own discretion, if and

to the extent that the nominal value of the assigned claims reaches 150% of the claims to be secured. The buyer is not authorised to assign claims against VOST arising from the purchase of livestock or any claims legally connected therewith to third parties. This also applies in particular to the assignment of receivables by way of so-called 'factoring'.

Upon request, the buyer shall be obliged to inform VOST of the name and address of the debtor of the assigned claims, as well as the amount of the claim. VOST is authorised to disclose the assignment to the debtor.

If the buyer is in default of payment to VOST in an amount exceeding EUR 1,000 (one thousand), or files for insolvency or insolvency proceedings are opened, the buyer shall be obliged to disclose the assignment of claims to VOST to its creditors without delay.

- 2.9. The buyer shall make the documents required to determine the whereabouts of the purchased goods (e.g. slaughter lists and records maintained for traceability purposes) available to VOST.
- 2.10. In the event of third party access to the purchased goods, the buyer shall without delay notify VOST in writing, by registered letter, and inform the third party of the principal's retention of title.
- 2.11. Set-off against counterclaims by the buyer is excluded unless the counterclaim is undisputed or has been confirmed by a final court judgment.
- 2.12. VOST is authorised to collect the prices and fees due by SEPA direct debit, unless the member expressly objects. The member is obliged to grant VOST a SEPA direct debit mandate. This applies in particular to the collection of payment for procured semen from third parties. In the event of payment under the SEPA Core Direct Debit Scheme or Business-to-Business Direct Debit Scheme, VOST shall notify the contractual partner of a one-off SEPA direct debit and of each recurring SEPA direct debit with varying amounts no later than one working day before the direct debit is collected. In the case of an initial recurring SEPA direct debit with fixed amounts, VOST shall notify the contractual partner no later than one working day before the first direct debit of the first direct debit collection and subsequent collections.
- 2.13. Invoices issued by the cooperative must be checked directly by the entrepreneur for accuracy, in particular with regard to the stated VAT rate. Complaints or notification of an incorrect VAT rate must be submitted to the cooperative in text form within 14 days of receipt of the invoice. If the cooperative does not receive notification from the entrepreneur within the 14-day period, the VAT rate stated by the cooperative shall apply. In the event of a breach of this notification obligation, the entrepreneur shall be liable to compensate the cooperative in accordance with the statutory provisions.

Agreement on characteristics, obligation to give notice of defects, liability for material defects and limitation period

3. Agreement on characteristics

- 3.1. The sales standards for breeding, production and slaughter animals set out below describe the characteristics of the animals that are the subject matter of the buyer's claim for performance. Neither the principal nor VOST shall determine any further characteristics with regard to performance, health or other properties. They do not form part of the respective purchase contract.
- 3.2. VOST shall not be liable for damage caused by infectious diseases or for consequential damage arising from infectious diseases transmitted from one barn to another or from the place of sale to other animals. In this respect, a general exclusion of liability is agreed, unless the principal acted with gross negligence or wilfully concealed an infectious disease affecting its barn or animal.
 - a) The Contractor shall be liable without limitation in accordance with the statutory provisions for injury to life, body or health resulting from a negligent or intentional breach of duty by the Contractor, its legal representatives or vicarious agents, as well as for damage covered by liability under the Product Liability Act, and for damage resulting from intentional or grossly negligent breaches of contract and fraudulent intent on the part of the Contractor, its legal representatives or vicarious agents. Insofar as the Contractor has given a guarantee of characteristics and/or durability with regard to the goods or parts thereof, it shall also be liable within the scope of this guarantee. However, the Contractor shall be liable for damage arising from the absence of the guaranteed characteristics or durability, but not occurring directly to the goods themselves, only if the risk of such damage is clearly covered by the guarantee as to characteristics and durability.
 - b) The Contractor shall also be liable for damage caused by ordinary negligence, insofar as this negligence concerns the breach of such contractual obligations, the fulfilment of which is essential to achieving the purpose of the contract. The same shall apply where the client is entitled to damage compensation in lieu of performance. However, the client shall only be liable insofar as the damage is typically associated with the contract and foreseeable.
 - c) Any further liability of the Contractor in connection with the sale of goods is excluded, regardless of the legal nature of the claim asserted; this also applies in particular to tort claims or claims for reimbursement of futile expenses in lieu of performance. Insofar as the Contractor's liability is excluded or limited, this shall also apply to the personal liability of its employees, workers, staff, representatives or vicarious agents.

3.3. Veterinary status

The farms of origin of the animals sold are subject to ongoing official veterinary supervision. The principal assures VOST compliance with the veterinary regulations applicable to livestock transport. Nevertheless, a risk of disease introduction cannot be entirely excluded and can only be minimised through appropriate quarantine prior to integrating the animals into the existing herd.

Failure to comply with quarantine constitutes a grossly negligent breach of duty.

The buyer undertakes to comply with all necessary quarantine measures. The buyer shall be solely liable for the consequences of non-compliance.

3.4. Pedigree/Catalogue information

Breeding animals shall conform, with regard to pedigree, age, performance and service data, to the VOST Studbook Regulations, as set out in the breeding certificate and, where applicable, in the auction catalogue. In case of doubt, the information contained in the breeding certificate shall prevail.

3.5. Pregnancy

An animal is deemed to be pregnant at the time of transfer of risk if a period of at least 12 weeks has elapsed between the last service date and the transfer of risk and pregnancy has been proven by the time of transfer of risk.

A pregnancy is considered normal if the period between the last service and calving does not exceed 295 days.

The information provided by the principal shall be used to determine the service date or relevant period.

3.6. Mating and fertilisation of breeding males

After licensing by VOST, breeding bulls are classified as suitable or not suitable for breeding according to the Studbook Regulations, based on pedigree, performance, and conformation. Breeding bulls mate and fertilise successfully when properly managed and fed. This characteristic is deemed fulfilled if, within 6 weeks of the bull being used for breeding, more than 50% of at least 10 well-bred females in herds with normal (undisturbed) fertility become pregnant.

3.7. Anatomical infertility of female animals

The calves and young cattle provided to VOST by the principal for sale as breeding animals shall be free from anatomical malformations of the reproductive organs that would preclude their use for breeding.

3.8. Hidden congenital hereditary defects

The principal expressly declares that congenital hereditary defects, such as umbilical hernia, etc., have not been eliminated by surgical intervention.

3.9. Udder health and condition of the birth canal

The following applies to udder health and the condition of the birth canal in breeding cattle from dairy breeds:

Pregnant and calved cattle are free of sclerotic udder quarters and teat occlusions at the time of transfer of risk.

The clinical health of the udder and birth canal is certified by a veterinary certificate issued on behalf of the principal before the transfer of risk.

3.10. Milk flow

Calved breeding heifers exhibit normal milk flow. Within 10 days after placement in the buyer's barn, the animals concerned achieve a milk flow not significantly inferior to that of comparable herd mates, provided that the milking equipment and milking personnel are adequate. In accordance with the provisions of the German Cattle Breeders' Federation (ADR), this is assumed to be an average milk flow rate (MFR) of 1.8 kg/min.

3.11. Weight of livestock

If the determination of the weight of livestock is the subject of the purchase contract, the weight determined by VOST or the principal shall apply with a tolerance of $\pm 5\%$.

3.12. Non-pregnancy of livestock for fattening

Farm animals offered for fattening shall not be pregnant.

4. **Obligation to give notice of defects**

- 4.1. The buyer is obliged to inspect the cattle directly after acceptance or delivery and if a deviation from the agreed characteristics is found, to notify VOST in writing or by fax or e-mail **without delay**. If the buyer fails to notify VOST, the animals shall be deemed approved despite deviations from the agreed characteristics.
- 4.2. Visible transport damage to animals must be noted on the delivery note and passed on to the transporter for feedback to VOST or the principal. Otherwise, the animals are deemed to be free of transport damage and to have been delivered in a healthy and proper condition.

5. Liability for material defects

5.1. Liability for defects

Unless otherwise provided below, the statutory warranty rights shall apply.

5.2. Pregnancy

- a) The buyer must, in addition to the immediate notification required under Point 4, provide evidence by means of a veterinary certificate of non-pregnancy within 6 weeks from the transfer of risk, and of prolonged pregnancy within 10 days after the 295th day of pregnancy, in order to preserve any rights in respect of defects.
- b) In the case of an alleged non-pregnancy, the veterinarian must confirm that calving can be ruled out.

Upon instructions from VOST, the buyer may send the animal for slaughter and claim the difference between the buyer's final purchase price and the slaughter value, plus a feed allowance of EUR 4.00 per day from the date of transfer of risk until the date of slaughter. The principal shall also be liable to VOST for this amount of damage regardless of fault.

- c) In the event of an extended pregnancy period beyond the 295th day from the last service date stated, the buyer shall be entitled to a feed allowance of currently EUR 4.00/day from the 295th day of pregnancy. The principal shall also be liable to VOST for this amount of damage regardless of fault.
- d) If the expected calving date falls after the 325th day from the last stated service date, both the buyer and the principal may demand rescission of the sale. The principal must reimburse the buyer for the hammer price and, if incurred, VOST fees and transport costs plus statutory VAT as well as the feed allowance from the 295th day and the costs for proof of calving. The principal shall be liable to VOST for any damages arising from the rescission and for indemnification against any claims of the buyer arising from this. In such cases, the principal also undertakes to take back the livestock.

5.3. Erroneous veterinary certificates

If the buyer proves by means of an official veterinary certificate that the official veterinary or other veterinary certificates enclosed with the purchased item were erroneous, this must be notified to VOST in writing within 14 days of the transfer of risk for forwarding to the certifying veterinarians. VOST shall not be liable for the accuracy of the certificates and attestations accompanying the animals sold.

5.4. Mating and fertilisation of breeding males

If the buyer proves by means of a veterinary certificate that an agreed characteristic does not exist, the buyer is entitled, after consultation with VOST, to have the animal utilised in the best possible way. Compensation shall be paid in accordance with the applicable claims settlement provisions. Rescission is possible for uninsured animals.

In deviation from Point 4, the following notification periods shall apply:

- 6 weeks in the case of non-service, and
- 4 months in the case of non-fertilisation,

From the transfer of risk.

5.5. Anatomical infertility of breeding females

If the buyer proves by means of a veterinary certificate that the cattle are anatomically unfit for breeding (e.g. pinched, hermaphrodite or freemartin), compensation is regulated as follows:

- a) For animals of the German Holstein breed, the buyer is entitled to a refund of the final purchase price. The animal shall remain with the buyer as compensation for the rearing and examination costs.
- b) For animals from a beef cattle breed, the buyer is entitled to rescission. Furthermore, the buyer shall be granted a feed allowance of currently EUR 2.00/day from the date of the transfer of risk until the time of the discovery of the defect.

The notification period is 24 months from the transfer of risk.

5.6. Hidden congenital hereditary defects

If the buyer proves by means of a veterinary certificate that a hereditary defect has been surgically concealed, he is entitled to rescission.

The notification period is 7 days from the transfer of risk.

5.7. Udder health

Udder defects must be reported to VOST by means of a veterinary certificate. The notification deadlines are:

- for calved cattle 3 days from the transfer of risk and
- for pregnant cattle 3 days after calving or a maximum of 45 days from the transfer of risk.

In the event of proven defects, the buyer shall be entitled to the following reductions in the purchase price:

- a) Three-teated udder 20%
- b) Two-teated udder 40%
- c) Other udder defects (udder fistula, milk duct fused with a teat).

The amount of the reduction under c) shall be determined by VOST and shall be between 10% and 30% of the purchase price.

Claims settlement is limited to sales within Germany.

5.8. Milk flow

If the buyer proves by means of a written certificate from the competent milk recording organisation that a milkability test carried out in accordance with the rules of the German Cattle Breeders' Federation (ADR) shows that the average milk flow rate (MFR) of an animal purchased as a calved cow is less than 1.8 kg/min, the buyer shall be entitled to a reduction in the purchase price as follows:

- a) for a MFR of 1.8 - 1.5 kg/min.: 15% reduction
- b) for a MFR of 1.2 - 1.5 kg/min.: 30% reduction, and
- c) for a MFR less than 1.2 kg/min.: the buyer is entitled to rescission or reduction in the amount of the statutory provisions.

Proof of a justified complaint regarding the milk flow can be provided by a foreign buyer by submitting the results (the arithmetic mean of at least 5 individual results) of the automatic milk flow measurement of the farm's own milk system in writing. Such proof must be confirmed by the responsible herdbook organisation/animal health service.

The milkability test/documentated milk flow measurement initiated by the buyer as substantiation for the complaint may be carried out at the earliest 4 weeks after the calving date and 7 days after placement in the buyer's barn.

The notification period is 7 days from the transfer of risk.

Once a milkability test has been carried out and the written certificate from the competent milk recording organisation has been submitted by the principal, subsequent complaints by the buyer regarding average milk flow rate (MFR) shall no longer be admissible; the required average milk flow rate shall be deemed to have been achieved.

5.9. Deviation in the weight of livestock

From a weight deviation of more than 5%, the buyer shall be entitled to a compensation payment in the event of a reduction, which is calculated according to the weight deviation exceeding 5% multiplied by the respective slaughter price per kilo.

5.10. Pregnancy of livestock for fattening

For livestock for fattening, the principal warrants non-pregnancy at the time of transfer of risk. If female animals are found to have been pregnant, this must be proven by a veterinary certificate as soon as it becomes known. The buyer shall be entitled to rescission of the sale, plus a feed allowance of EUR 1.50/day for the period from the transfer of risk until the return of the cattle.

5.11. Unfitness for human consumption

The buyer shall be entitled to a price reduction in the event that slaughtered animals are wholly or partially unfit for human consumption. The price reduction and any additional costs incurred by the buyer in this connection shall be passed on to the principal. Liability for damage is limited to the individual animal concerned.

6. Burden of proof, regulation of defects and limitation period

6.1. Burden of proof

As an entrepreneur, the buyer bears the burden of proof for all claim prerequisites, in particular the existence of a deviation from the agreed characteristics, the time of the occurrence of a defect and for the timeliness of the notice of defects.

6.2. No liability for known defects

If the buyer knew or should have known of the defect or was informed of a health restriction by a veterinary certificate or was otherwise informed of a deviation from the characteristics prior to the conclusion of the purchase contract, the buyer shall be excluded from any claims for material defects.

6.3. Limitation period

All claims arising from liability for defects shall lapse six months after the transfer of risk, irrespective of compliance with the notification period in accordance with Point 4. This shall not apply:

- to claims for damages arising from injury to life, body or health based on a negligent breach of duty by VOST or by a legal representative or vicarious agent of VOST;

- to claims for compensation for other damages based on a grossly negligent breach of duty by VOST or on an intentional or grossly negligent breach of duty by a legal representative or vicarious agent of VOST.

7. Animal insurance

In accordance with the applicable insurance terms and conditions, VOST shall handle the claims settlement and compensation payments for auction animals in accordance with the following provisions:

a) *Breeding animals*

- Breeding and fertilisation defects (breeding bulls)

The veterinary costs incurred in connection with the complaint (veterinary certificate) shall not be reimbursed to the buyer.

- Transport
- Calving
- Udder defects
- IBR/IPV

b) *Livestock*

- Transport

8. Data protection, severability clause, place of jurisdiction and place of performance

- 8.1. VOST is authorised to store data received in accordance with the EU General Data Protection Regulation [GDPR] and the Federal Data Protection Act [BDSG] and to process or use it for operational purposes in accordance with the statutory provisions.
- 8.2. Should individual provisions or partial provisions be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a provision that comes closest to the purpose of the sale. This shall apply mutatis mutandis in the event that the provisions prove to be incomplete. The place of jurisdiction and place of performance for both parties is Aurich.

9. Slaughter cattle

- 9.1. Fitness for human consumption is agreed for slaughter animals. Possession of a valid slaughter licence is also an agreed contractual characteristic. Failure to pass the ante-mortem inspection or an objection based on food hygiene regulations is considered a defect.
- 9.2. If the slaughter animals are rejected on the basis of official and legally prescribed sample tests, the principal shall be liable for all resulting damages in accordance with statutory provisions.

- 9.3. The risk of accidental loss, damage and deterioration of the slaughter animals shall pass to the farmer/principal upon collection from the loading ramp of the VOST transport vehicle.