



General Terms and Conditions of Purchase (GTCP) of LEGUNA N ahrungsmittel GmbH,

Bahnhofstra e 2 in 5270 Mauerkirchen, Austria

(Date: 20.08.2021)

  1 General - Scope of application

1. Our purchase orders and contracts are exclusively based on our General Terms and Conditions of Purchase. This shall also apply to continued purchasing relationships without having to be expressly agreed again.
2. The validity of the supplier's terms and conditions in his general terms and conditions or order confirmations is hereby explicitly rejected. The unconditional acceptance of order confirmations, delivery or payment does not imply any recognition of deviating or conflicting terms and conditions of the supplier. Deviating or conflicting terms and conditions of the supplier shall not be recognized unless their validity has been expressly agreed to in writing.
3. Our General Terms and Conditions of Purchase shall apply to companies from which goods, services or other products are purchased, as well as to legal entities under public law.
4. If framework agreements, fixed price agreements or contractually negotiated agreements have been concluded between the supplier and us, these shall only take precedence over the General Terms and Conditions of Purchase to the extent that these contradict them. Otherwise, they shall be supplemented by the General Terms and Conditions of Purchase.

  2 Conclusion of contract - Contract amendments - Contract content

1. The content and scope of orders, purchase orders, contracts and delivery schedules by LEGUNA N ahrungsmittel GmbH shall be governed exclusively by the orders placed in writing or in text form.
2. Verbal agreements of any kind between the supplier and us shall require our written confirmation in order to be effective.
3. Our General Terms and Conditions of Purchase shall become binding upon delivery of our orders or purchase orders, unless they are immediately rejected by the supplier. We shall be entitled to revoke an order or purchase free of charge if the supplier does not confirm written acceptance within 2 working days.
4. Cost estimates of the supplier shall be binding and shall not be remunerated unless something else is expressly agreed between the supplier and us.
5. If the supplier wishes to make use of third parties in the fulfilment of its orders or purchase orders, this shall only be possible with our written consent.
6. If the supplier has assumed the installation or assembly of the goods, the supplier shall bear all ancillary costs required for this (unless it is subject to other agreements), e.g. wages and travel expenses of the fitters, rental of machines and tools, etc.
7. The supplier shall perform the services to be rendered itself.

§ 3 Delivery - Delivery time - Delay

1. All delivery dates agreed in our orders or otherwise are binding. Deliveries shall be made on the basis of Incoterm DAP, agreed place of delivery (Incoterm® 2020), unless otherwise agreed between the supplier and us. The respective arrival of the goods at their place of delivery shall be decisive for compliance with the delivery date.
2. The supplier shall be obliged to inform us immediately and without being requested to do so in written form of any impending or actual failure to meet a delivery date, its cause and the expected duration of the delay. This shall not affect the occurrence of the delay in delivery.
3. In the event of a delay in delivery, we shall be entitled to claim compensations to the corresponding extent, plus a contractual penalty of 0.2% of the order or contract value for each day that the goods are delayed, up to a maximum of 5% of the order or contract value.
4. In the event of a delay, we shall be entitled to make correct and timely covering purchases at the expense of the supplier. The unconditional acceptance of the delayed delivery shall not constitute a waiver by LEGUNA Nahrungsmittel GmbH of any claims for compensation to which it is entitled on account of the delayed delivery. Clause 3 above shall be taken into account in this respect.
5. The supplier shall be obliged to state our order number exactly on all shipping documents and delivery bills. The supplier shall be responsible for the processing costs incurred by us due to incorrect or missing numbering and the resulting delays in processing.
6. The supplier shall not be entitled to make partial deliveries without our express consent, unless such partial deliveries are reasonable for LEGUNA Nahrungsmittel GmbH. Otherwise, we may reject the delivery and return it at the supplier's expense. Further claims on our part, in particular claims for damages, shall remain unaffected thereby.

§ 4 Texture / Composition

1. The goods to be delivered shall comply with the specifications or properties (quality specifications) contained in our purchase order or our order. The same shall apply in the event that the quality specifications have been agreed between the supplier and us. If a sample was made available to us by the supplier and if this sample became the basis of the order, the goods shall have the properties of the sample. Deviations from the agreed quality specifications may only be made with our written consent. If no specific quality specifications have been agreed, the goods shall correspond to the product-specific quality customary in the trade and shall be suitable for use in accordance with the contract.
2. The supplier guarantees that the goods are manufactured and delivered in accordance with the applicable statutory provisions. In particular, the composition, quality, packaging and declaration of foodstuffs must comply with the respectively applicable Austrian and European food law provisions.
3. The supplier is obligated to provide proof of the quality of the goods, proof of the origin of the goods and proof that the goods comply with the legal requirements upon our request.

§ 5 Notice of defects

1. Acceptance of the goods shall be subject to an inspection so that the goods are free of defects, in particular for correctness and completeness, insofar as and as soon as this is feasible in the ordinary course of business. We shall immediately give notice of any defects that have occurred. The same applies to hidden defects immediately after their discovery.
2. Payments made shall not constitute recognition of the delivery or service as being in conformity with the contract.

§ 6 Claim for defects

1. We shall be entitled to the claims for defects to the full extent provided by law.
2. Furthermore, in the event of subsequent performance, the supplier shall be obliged to bear all costs for the removal of the defective item and the installation of the non-defective item, insofar as the supplier is at fault in this respect.
3. If the item is not in our custody in the course of subsequent performance, the supplier shall bear the risk of accidental loss or deterioration.
4. We shall be entitled to remedy the defect and any damage caused by the defect ourselves or to assign it to a third party at the supplier's expense if it is not possible for us to grant the supplier a grace period due to particular urgency; in this case, we shall inform the supplier thereof before remedying the defect.

§ 7 Product liability - indemnification - product liability insurance

1. The supplier shall be liable to the full extent of damages incurred by us or our customers due to a defective product. We do not accept the exclusion or limitation of this obligation to pay compensation pursuant to § 9 of the Product Liability Act.
2. To the extent that the supplier is responsible for a product defect, the supplier shall be obligated to indemnify LEGUNA Nahrungsmittel GmbH against claims of damages by third parties upon first request.
3. The supplier is obliged to maintain a product liability insurance with a coverage of at least 10 million euros per personal injury/property damage - lump sum. The supplier shall provide LEGUNA Nahrungsmittel GmbH with evidence of this insurance coverage upon request.

§ 8 Product recall

1. Within the scope of its statutory liability for the defectiveness of the goods or for product defects, the supplier shall be liable for any damage incurred by us within the scope of a public or silent recall to be carried out; in particular, the supplier shall be obliged to reimburse any expenses.

We shall inform the supplier about the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him/her the opportunity to comment.

2. Other legal claims shall remain unaffected.

§9 Warranty and guarantee

The supplier guarantees that his deliveries and services are free of defects for a period of 36 months from the acceptance of the order. LEGUNA Nahrungsmittel GmbH may, at its own discretion, demand improvement, replacement, price reduction or rescission of the contract even in case of merely insignificant defects. The warranty period shall be extended by the period of downtime due to defects.

§ 10 Transfer of ownership

Ownership of the goods shall pass to us upon handover of the goods. Agreements on the retention of title, such as the so-called current account retention or/and group retention, shall not apply.

§ 11 Prices

1. Unless otherwise agreed, the agreed prices are fixed prices, i.e. in particular including VAT, assembly, installation, packaging, insurance, freight and customs clearance, unless otherwise agreed in the individual case.
2. In the case of invoiced packaging material, the seller shall take back the packaging at our request. The return of the packaging shall be carriage paid and at the risk of the supplier, unless otherwise agreed in the individual case.

§ 12 Invoicing - terms of payment

1. Invoices are to be sent to us with all features required for tax purposes. In addition, the invoices must contain the order number and the order date as well as the supplier number according to the order of LEGUNA Nahrungsmittel GmbH. Otherwise, it will not be possible to process the invoices.
2. The supplier shall be liable for damages resulting from a breach of the aforementioned obligations regarding the preparation and transmission of invoices to the extent that the supplier is responsible for the breach.
3. Unless otherwise agreed in writing, we shall make payments within 8 days with a 3% discount, within 14 days with a 2% discount and within 30 days net after receipt of the invoice. The payment and discount periods shall run from the date of receipt of the invoice and the due date, but not before the goods and the documentation relating to the goods (waybills, specifications, declarations, etc.) have been handed over to us at the named place of delivery.
4. In the event of complaints, e.g. notices of defects or incorrect invoicing, the payment period shall not commence until the reasons for the complaint have been clarified.

§ 13 Offsetting - rights of retention

1. We shall be entitled to rights of set-off and retention to the extent provided by law.
2. The supplier shall only have a right of set-off and a right of retention on the basis of counterclaims that have become res judicata or are undisputed.

§ 14 Statute of limitations

1. The mutual claims shall become statute-barred in accordance with the statutory provisions, unless otherwise stipulated below.
2. Insofar as we assert our claim for subsequent delivery or subsequent improvement in the event of defectiveness, the statutory limitation period shall begin anew for the parts of the delivery repaired, repaired or delivered on the basis of the claim for subsequent performance, unless the supplier has expressly acted as a gesture of goodwill.
3. The limitation period for claims based on defects shall be suspended by LEGUNA Nahrungsmittel GmbH's filing of a notice of defect until the claim based on the defect has been satisfied.

§ 15 Trade mark rights

1. The supplier guarantees that he/she is the owner of all industrial property rights, trademark rights and copyrights with regard to the goods delivered by it and that the delivery of the goods to us does not infringe any rights of third parties.
2. If claims are asserted against us by a third party for this reason, the supplier shall be obliged to indemnify us against the claims on first written request.
3. The supplier's obligation to indemnify us shall apply to all expenses incurred by us as a result of or in connection with the claim by a third party, in particular also the costs of legal action.

§ 16 Confidentiality and non-disclosure obligations

1. We reserve the property rights and copyrights to all information made available to the supplier within the framework of the contract, in particular illustrations, plans, drawings, calculations, instructions, product descriptions and other documents in whatever form. They may only be made accessible to third parties with our written consent. They are to be used exclusively for the processing of our/our order/contract.
2. Excluded from this is such information which:
 - is already public knowledge at the time it becomes known
 - is readily accessible to any third party
 - must be disclosed at the request of an authority, a court or any other legally entitled third party and/or
 - must necessarily be disclosed to the supplier's legal or tax advisors for the purpose of providing advice
3. The burden of proof for the existence of these exceptions shall lie with the party invoking them.
4. In the cases of clause 2, the supplier shall inform us without delay of a corresponding request and coordinate the release of the information - as far as possible.
5. After completion of the order/contract or termination of the contractual relationship, confidential information shall be returned to us without being requested to do so.
6. The confidentiality and non-disclosure obligations shall apply indefinitely beyond the completion of the order/contract or termination of the contractual relationship.

§ 17 Data protection

We or third parties commissioned by us and subject to an agreement in this respect shall be entitled to collect, process and use the personal data received in connection with the business relationship with the supplier in accordance with the valid and legal data protection provisions.

§ 18 Severability clause - Place of jurisdiction - Place of performance - Applicable law

1. Should any provision in these Terms and Conditions or in the context of our other contractual agreements be or become void, invalid or unenforceable, the validity of these Terms and Conditions or agreements shall not otherwise be affected.
2. The place of jurisdiction for both parties is the competent court in 4910 Ried im Innkreis, Austria. The contractual relations shall be governed exclusively by Austrian law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods and the conflict-of-law rules.
3. Unless otherwise stated in the order, our place of business shall be the place of performance for the delivery. For payment, the place of performance is our place of business.