



GENERAL TERMS OF PURCHASE

OF BAYERNLAND eG

§ 1

General – Scope

- (1) Our purchase terms form part of all contracts which we conclude with the supplier regarding the supplies and services offered by him. They are valid in their latest version, also for each future business with the supplier, even if they were not separately agreed again.
- (2) Our purchase terms are valid exclusively; we do not accept any terms of the supplier conflicting or deviating from our purchase terms unless we have expressly agreed on their validity in writing. If we refer to a letter which contains or refers to business terms of the supplier, we do not agree on the validity of such business terms. Our purchase terms are also valid, if we in knowledge of terms of the supplier conflicting or deviating from our purchase terms accept the delivery of the supplier without reservation.
- (3) All terms concluded individually with the supplier do have priority in any case over these purchase terms. A written contract or our written confirmation is necessary for the content of such agreements.
- (4) Our purchase terms are only valid towards entrepreneurs with the meaning of § 310 section 1 BGB.

§ 2

Orders – Tender Documents – Secrecy

- (1) As far as our offers do not expressly contain a commitment period, they are binding for us 5 days after date of offer. Decisive for the acceptance is the receipt of the acceptance at our office in time.
- (2) The supplier shall inform us about obvious errors (e.g. clerical mistakes) and incomplete orders including order documents for the purpose of correction or completion before acceptance, otherwise the contract will be regarded as not concluded.
- (3) We are entitled to modify time and place of the delivery, sort of packing as well as product specification any time by written notice within a reasonable period of time before the agreed delivery date. Reasonable is a period of time in which the modification can be effected within the normal production process of the supplier without considerable additional effort.
- (4) The supplier is obliged to indicate on the order confirmation our order number, the supplier's number, the material number, the place of delivery and the exact delivery date. If these indications are not made, the delays resulting from this are not caused by us.
- (5) We reserve the ownership or copyright for the orders placed by us as well as drawings, pictures, calculations, descriptions and other documents provided to the supplier. The supplier is not allowed to make them accessible without our express permission neither to third parties nor use or duplicate them himself or by third parties. He shall return these documents to us completely at our request, if they are no longer needed by him for the proper course of business or if negotiations do not lead to concluding a contract. Copies prepared thereof by the supplier are to be destroyed in this case; except thereof is only the storage under legal retention requirements and storage of data for backup purposes in the context of ordinary backup. Without our prior written consent the supplier is not allowed to point to the business relationship in promotional material, brochures etc. and not exhibit delivery items made for us. The supplier shall oblige its subcontractors accordingly.

§ 3

Prices – Payment Terms

- (1) The price stated in the order is binding. For lack of any deviating written agreement the price includes delivery and transport to the delivery address stipulated in the contract and the packaging. At our request, the supplier shall take back the packaging.
- (2) Invoices can only be processed by us if they specify our order number, the supplier's number, the material number and the date of delivery and performance. For all consequences arising by failure to observe this obligation the supplier is responsible, unless he can prove that he is not responsible.
- (3) The agreed price will be due within 30 calendar days after complete delivery and performance as well as receipt of a proper invoice for payment. If we effect payment within 14 calendar days, the supplier grants us 3 % discount on the invoice's net amount.
- (4) We are entitled to set-off rights and rights of retention as well as the defence of non-performance in the statutory scope. We are especially entitled to withhold due payments as long as we still have claims from incomplete or poor performance against the supplier.
- (5) The supplier has a set-off or retention right only on legally established or undisputed counterclaims.

§ 4

Date of Delivery – Delay of Delivery

- (1) The delivery date indicated in the order is binding.
- (2) The supplier is obliged to inform us immediately in writing if circumstances arise or become known to him, which indicate that the agreed delivery date cannot be met.
- (3) If the date on which the delivery must be made at the latest, can be determined due to the contract, the supplier comes in default at the end of the day, without the need of requiring a reminder on our part.
- (4) In case of delivery delays we are fully entitled to legal claims, including the right of withdrawal and the right to compensation instead of the performance after the fruitless expiration of an extension.
- (5) We are entitled to demand a contractual penalty in the amount of 1 %, maximum 5 %, of the respective order value at delays after previous written warning against the supplier for each commenced week of the delay in delivery. The contractual penalty is to be counted to the compensation paid by the supplier for delay damage.

§ 5

Delivery – Transfer of Risk

- (1) The supplier shall not be entitled without our prior written consent to have effected the service he owes by third parties (e.g. sub-contractors). The supplier bears the procurement risk for his services, if not otherwise agreed in particular case.
- (2) The supplier shall not be entitled to carry out partial deliveries without prior written permission.
- (3) The delivery shall be accompanied by a delivery note stating the date (issue and shipment), content of the delivery (item number and quantity), place of delivery as well as our order identifier (date and number). If the delivery note is missing or incomplete, so we are not responsible for delays resultant hereof regarding processing and payment.



(4) If not otherwise can be seen from the individual supply contracts, the delivery shall be carried out „free delivered“ to the location specified in the order. The respective destination is also the place of performance for the delivery (debt to bring). The danger of accidental loss and accidental deterioration of the goods shall be transferred with the handover at the place of performance. If acceptance is agreed, this is decisive for the transfer of risk.

§ 6

Quality Agreement – Laboratory Analyses – Factory Visits

- (1) The supplier guarantees that the goods delivered to us
 - a) correspond to all agreed quality assurance arrangements and quality agreements, especially to the agreed specifications and samples, and are at least of merchantable quality;
 - b) correspond in all respects to the relevant legal provisions, regulations and market perceptions and are marketable. This also applies to the proper labelling and packaging of the goods. For food and their packaging the laws, regulations, directives and guidelines of the German and European food law shall be observed. In the case the supplier has been notified about a certain sales country, the goods shall also be marketable in this country. Otherwise the Federal Republic of Germany is sales country;
 - c) have been produced in accordance with the agreements on the production process and the best industrial standards;
 - d) is entirely suitable for food production and for the presupposed use according to the agreement. He shall inform us immediately about any concerns thereof.
- (2) The supplier agrees
 - a) not to modify the specifications without our prior written consent.
Our consent can only be granted if we are adequately informed by the supplier prior to the planned modification;
 - b) to use only substances and materials whose wholesomeness and marketability is certified by certificates of accredited inspection bodies and have been carefully examined by appropriate inspection of the supplier when receiving the goods;
 - c) to buy only from third-party suppliers who grant at least customary quality standards of their products and their production process;
 - d) to keep retained samples in accordance with the recognized principles of good manufacturing practice for the product specific period of time and to provide them to us at our request. The supplier is obliged to carry out analysis or testing of the goods or samples or components thereof at his own cost in accordance with test series to be determined by us in individual cases. For this purpose the supplier is obliged to send samples to a laboratory to be determined by us. The supplier will bear the reasonable costs of such a laboratory test;
 - e) to grant the gapless traceability of the supplied products, substances and material, also packaging material, and of the production process in accordance with the applicable legal requirements and to provide all necessary information thereof when needed;
 - f) to make available documents for the export of the goods, in particular certificates of origin, health certificates or clearances when required;
 - g) to send us unprompted a declaration of conformity for the delivered packaging material, packaging aids and objects of demand for use as food packaging.
- (3) We always have the right to unannounced visit to the premises of the supplier, in which the product is manufactured, and to see the relevant documents regarding production, storage and transport of the goods.
We are entitled to have these activities be carried out by an independent company which we are free to choose for the purpose of such a visit.

§ 7

Investigation for defects – Defective Delivery

- (1) The supplier will conduct a thorough inspection of the outgoing goods before delivery of the products to us and check in particular those specifications mentioned under § 6. If there are indications that the goods are not completely equivalent to the specifications, the supplier will inform us immediately and prevent the delivery.
- (2) For our obligations regarding commercial investigation and reprimand the legal provisions (§§ 377 HGB, 381 HGB) are valid with the following conditions:
- (3) Our obligation for investigation is limited to deficiencies obviously appearing during the inspection of incoming goods by external evaluation including the delivery documents as well as during our quality control by sampling procedure, e.g. transport damage, wrong and short deliveries. It moreover depends on the circumstances to which extent an investigation is feasible in the individual case according to ordinary course of business. Our obligation of reprimand for deficiencies discovered at a later point of time remains unaffected. In all cases, our complaint is considered as promptly and on time, if it is reported to the supplier within 5 working days regarding perishable goods, otherwise within a period of 10 working days from receipt of goods or regarding hidden defects from date of their discovery.
- (4) We are entitled in full to statutory warranty claims; in any case we are authorized to demand from the supplier either remedial measures or delivery of a new product. The right to damages, in particular damages instead of performance, remains expressly reserved.
- (5) If the supplier does not fulfil his obligation for subsequent performance within a reasonable period of time set by us, so we can remedy the defect ourselves and demand substitute from the supplier for the necessary expenses and require appropriate advance. If the subsequent performance failed by the supplier or is unreasonable for us, particularly due to special urgency, risk of operational safety or impending occurrence of disproportionate damage, no deadline is required; we will inform the supplier immediately about such circumstances, if possible in advance.
- (6) The limitation period is 36 months from transfer of risk, as far as no longer limitation period is determined legally, in particular the mandatory provisions of §§ 478, 479 BGB become valid.

§ 8

Product Liability – Crisis Management – Exemption – Liability Insurance

- (1) If the supplier is responsible for product damage, he is obliged to indemnify us so far on our first request from third party damage claims, as the cause lies within his domain and organization and he is liable even in the external relationship.
- (2) The supplier performs a functional crisis management. In the event of a crisis the supplier can be reached and can act also after business hours. The supplier shall inform us immediately if he takes back goods of a batch himself or recalls goods, when also goods are affected delivered to us. Upon our request, he provides us with all relevant documents and information.
- (3) In the course of his own liability for damages within the meaning of § 8 section 1 the supplier is also obliged to reimburse us costs and expenses according to §§ 683, 670 BGB or §§ 830, 840, 426 BGB arising out of or in connection with a recall action carried out by us legitimately. We will inform the supplier – as far as possible and reasonable – well in advance about nature and extent of such recall measures and give him the opportunity for comment.
- (4) If it is warned of health risks of the goods delivered to us in public, we may withdraw from the contract and return already delivered goods of the supplier at the cost of the supplier. Further claims by us remain unaffected.



- (5) The supplier is obliged to entertain a global product liability insurance with coverage of at least 10 million € per personal injury / property damage; We are entitled to further compensation claims, these remain unaffected.

§ 9 Property Rights

- (1) The supplier guarantees that in connection with his delivery no rights of third parties are injured.
- (2) If there is held a claim thereof against us by a third party, the supplier is obliged to exempt us on first written demand from these claims. Damage claims of third parties, the supplier must provide proof that he has not violated the rights of the third party.
- (3) The obligation for exemption by the supplier refers to all expenses which are arising to us from or in connection with the claim by a third party.
- (4) The limitation period for these claims shall be 36 months from transfer of risk as far as no longer limitation period is determined. The requirements, however, shall not expire in any case as long as the third party may make legal claims against us, particularly in the absence of limitation.

§ 10 Retention of Title

- (1) We reserve property rights for all substances and materials as well as templates, samples and other objects that we provide to the supplier for production. Such articles are – as long as they are not processed – to be stored separately at the expense of the supplier and to be insured at a reasonable extent against destruction and loss. At the same time, the supplier already now assigns to us all claims for compensation from such insurance; We hereby accept the assignment.
- (2) Processing or transformation through the supplier of the substances and material provided by us are made for us. If our goods reserved for us are processed with other items, not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of our item (purchase price plus VAT) to the other processed items at the time of processing.
- (3) If the item provided by us is inseparably mixed with other items, we shall acquire joint ownership of the new item in ratio of the value of our reserved item (purchase price plus VAT) to the other mixed items at the time of mixing. If mixing is in such a way that the item of the supplier shall be regarded as the main item, it is agreed that the supplier transfers proportional joint ownership to us; the supplier shall hold the sole or joint ownership for us.
- (4) As far as the security rights we are entitled to according to the preceding paragraphs shall exceed the purchase price of all our conditional commodities not paid yet by more than 10 %, we shall be obliged at the supplier's request to release the security rights at our choice.
- (5) If we accept in individual cases a conditional offer of the supplier on transfer of ownership by paying the purchase price, the supplier's retention of title shall expire at the latest when paying the purchase price for the delivered goods. We remain entitled in the ordinary business performance also before paying the purchase price to resell the goods without revealing the reservation of property. We do not recognize further retention of title rights of the supplier.

§ 11 Code of Conduct – Antitrust – Damages

- (1) The supplier shall respect the principle of ethical business practices.
- (2) He does not participate in corruption, extortion, bribery or embezzlement. On our demand he has to prove us the implementation of the requirements.
- (3) The supplier guarantees that the prices and conditions offered to us were not subject of agreements that represent an impermissible restriction on competition. Prohibited restrictions on competition are particularly anti-competitive practices and agreements with other suppliers / applicants about demanding rates, bonds of other charges, mark-ups, processing margins and other price components, payment, delivery and other conditions as far as they directly affect the price, payment of loss compensation or redundancy payments and profit-sharing and other Information and recommendations, unless behaviour and collusions are allowed under the Competition Act.
- (4) If a court or the Antimonopoly Committee has determined that the supplier has been involved in such a restriction on competition in this period of obtaining the supplies, he shall be obliged to pay us liquidated damages in the amount of 5 % of all net invoice amounts (excluding discounts and value added tax) of the relevant products issued during the Kartell period plus statutory interest. The supplier shall have the right to prove that we had no or only a minor damage less than 5 %. The obligation for payment shall also be valid even if the contract is terminated or already fulfilled. Other contractual or statutory claims for damages by us because of the infringement of competition law shall not be affected. The supplier shall provide us with all the information necessary to verify the existence of our claims.

§ 12 Final Provisions

- (1) If the supplier is a merchant in terms of the Commercial Code, – also international – the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the place of our headquarters in Nuremberg. We, however, shall also be entitled to raise an action at the general place of jurisdiction of the supplier.
- (2) For these General Conditions and the contractual relationship between us and the supplier the law of the Federal Republic of Germany shall be valid excluding international uniform law, in particular the CISG.
- (3) The invalidity of individual provisions of these general conditions of purchase shall not affect the validity of the other regulations. Ineffective regulations shall be valid by replacing them through such valid provisions suitable to realize the economic purpose of the deleted provision as far as possible.

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