

# General Conditions of Purchase of TSI GmbH & Co. KG

## 1. Conclusion of Contract, Legal Form Requirements

Any legal relationship between supplier and TSI GmbH & Co. KG (TSI) is subject to the following General Conditions of Purchase of TSI (Purchase Terms). Conditions stipulated by the supplier as well as deviating agreements will be applicable only if confirmed by TSI in written form. Neither the fact TSI does not expressly object to an agreement nor the acceptance or payment of goods or services by TSI shall be construed as an acknowledgement. The sales contract and all modifications, side agreements, declarations regarding the termination of the sales contract and all other statements or notices require text form as defined in § 126b German Civil Code (BGB).

## 2. Delivery Terms

All deliveries are "free warehouse" to a location determined by TSI, and unless determined otherwise, shall include packaging and conservation. The dispatch is carried out at the risk and the expense of the supplier. The supplier is not entitled to partial deliveries, unless TSI expressly agreed to partial deliveries in written form after a respective previous demand by the supplier.

## 3. Delivery Dates, Delivery Delay

Agreed dates and time limits are binding. A delivery date or term requirement shall be deemed satisfied if TSI or the consignee determined by TSI has received the goods in time. The supplier shall inform TSI immediately in written form about any delay in delivery. The supplier must also indicate the reason for such delay and its expected duration. If the reason for the delay is beyond the supplier's control, the supplier may invoke such reason only if the supplier has met its obligation to notify TSI in due time. If the supplier gets in delay with a delivery, TSI is entitled to demand a contractual penalty from the supplier. The contractual penalty amounts to 0.5 % of the total net order value for each commenced week of delay in delivery, but altogether the maximum contractual penalty for a delay in delivery amounts to 5 % of the total net order value. This agreement pertaining to the contractual penalty or enforcement thereof shall not affect any justified legal claims for a delay in delivery. Paid contractual penalties shall be set off against claims of damages. The contractual penalty may be claimed by TSI until the date of payment of the delayed goods.

## 4. Quality Requirements

The supplier guarantees the quality of goods as in agreed condition. The following minimum quality requirements are to be complied with all items supplied to TSI by the supplier:

- The respectively applicable food law regulations and in particular the principals of food hygiene are to be taken into account. Always valid as the fundamental element is the current status of international food hygiene regulation (VO (EC) No 852/2004).
- The composition and declaration of each product is required to comply with the respective relevant regulatory provisions, such as the Food and Feed Code (LFGB) and its subsequent regulations, with valid EC / EU-regulations, in particular with the regulation on the provision to customers (VO (EU) No 1169/2011), with their respective central principals, DIN-ISO requirements, guidelines, and ALS declarations etc. in their respective current version.
- Examination procedures as per § 64 LFGB are to be applied to determine the analytical index figures.
- Allergens and possible cross-contaminants contained in the products are to be notified fully in advance and have to be declared properly. To this extent, the respective currently applicable German regulations as well as international regulations serve as the legal basis.
- According to regulation (EC) No 1829/2003 on genetically modified food and feed, the supplier especially also guarantees that the delivered goods are not containing or consisting of genetically modified organisms (GVO) and that no GMO get used during the manufacturing process.
- The supplier must take preventive measures to ensure protection of the production site (Food Defense) from possible malicious manipulation (physical, chemical or biological contamination, sabotage, espionage).
- Should a product supply agreement be reached, a certificate of analysis is to be furnished for each product from an independent and accredited laboratory that confirms the marketability of the product in the European market. If desired, these examinations can also be commissioned by TSI, in so far as the supplier bears the cost of examination.

TSI inspects incoming goods only with respect to externally apparent defects and externally apparent deviations in identity and volume. TSI will give notice of such obvious defects without undue delay. Furthermore, TSI will give notice of hidden defects as soon as such defects have been detected in the ordinary course of business. With respect to the foregoing, the supplier hereby waives the right to assert that the defects have been asserted too late. If defects have been discovered, TSI shall be entitled to return the entire shipment. In case of significant quality defects or recall situations, TSI shall have the right to require a lump-sum for administration activities up to 500.00 €.

## 5. Prices, Payment Terms

The agreed prices are firm prices. Unless otherwise is agreed, payment will be made within 14 days with a 3 % discount or within 45 days net. The periods are computed from (i) the time of performance in compliance with the contract and (ii) receipt of a proper and verifiable invoice. If TSI receives and accepts a delivery at an earlier date, than the payment period agreed upon begins with the agreed delivery date and receipt of a proper and verifiable invoice. TSI is entitled to choose the method of payment at its own discretion. The supplier is not entitled to assign a claim against TSI to a third party or have such claim collected by a third party. The provisions of § 354a German Commercial Code (HGB) shall not be affected by the foregoing sentence.

## 6. Warranties, Reimbursement of Cost, Warranty Period, Insurance

If the delivered goods are defective, TSI will be entitled to the statutory rights, unless the following conditions provide otherwise. If there is danger of unusually high damages or for the purpose of maintaining the ability of TSI to deliver to its customers TSI shall be entitled, following notification of the supplier, to remedy the defects itself or have them remedied by a third party. Costs incurred as a result of remedial action taken in accordance with the preceding sentence shall be borne by the supplier. The supplier is responsible for all claims made by third parties for personal injury or property damage due to a defective product supplied by them. He is obliged to indemnify TSI from any resulting liability. The supplier shall bear all costs associated with the recall, if TSI is obliged to carry out a recall to third parties because of a defective product provided by the supplier. In the case of a recall, TSI reserves the right to charge an administrative fee in the amount of up to 500.00 € per call and in the amount of 50.00 € per supplied retail market of TSI-customers. Unless mandatory law provides otherwise, the supplier is liable for defects that arise within 36 months as of the date of receipt of the delivery of the supplier or the date of acceptance, provided such acceptance was required as a matter of law or agreement. In case of Supplementary Specific Performance (cure of defects or delivery of goods free of defects), this period is extended by the time during which the delivery item cannot be used as stipulated in the contract. Supplementary Specific Performance is also subject to the periods stated above. All claims relating to defects become time barred at the earliest two (2) months after all claims of the customer may have been fulfilled. This delay in time bar expires at the latest five (5) years after delivery to TSI. Throughout the term of the supply relationship, the supplier shall maintain adequate insurance in particular with respect to the risks of this No. 6. upon request of TSI, the supplier shall furnish TSI with evidence of such coverage.

## 7. Loss of Reputation and return of products

The supplier undertakes to do everything and anything to be omitted to avoid damage to reputation of TSI and/or its clients. The supplier commits to take back the goods if the actual marketability decrease due to authorities' information and/or media reports or their further selling could damage the reputation of TSI and/or of the TSI-customers. The supplier waives to the purchase price or will refund to the purchase price already paid. This does not apply if the reduced marketability or suitability for defamation is caused by TSI or has been known by TSI at the time of signature of the contract. In assessing whether an impaired marketability or suitability for defamation exists, it is important whether the trust placed by the end customer within the product range or his satisfaction could be affected by the goods.

## 8. Free-Issue Parts

Substances, parts, containers, packaging or similar items ("Free-issue parts") remain property of TSI. In cases of specification of Accessories, union of Accessories or mixture of Accessories, TSI will become co-owner of the new goods. The co-ownership share of TSI shall be equal to the proportionate value of the Accessories compared to the overall value of the new item. The supplier shall not have any rights of retention on whatever basis of Accessories. Accessories may not made available to third parties and may not be used for any other purposes than the agreed upon purpose.

## 9. Third-Party-Rights

The supplier is liable for ensuring, that by the delivery of the product rights of third parties, in particular (i) rights of ownership, (ii) sales relationship or (iii) protective rights of any kind, such as patents, trademarks, registered designs, registered taste design, copyrights etc., are not injured. In case of culpable violation by the supplier, the supplier releases TSI from all claims by a third party.

## 10. Confidentiality

The supplier shall keep all information received by TSI as confidential and may not make such information available to a third party (also subcontractors and companies affiliated to the supplier) without the prior written consent of TSI and may not use such information for purposes other than as determined by TSI. TSI retains and reserves all other rights (such as copyright) to the information. If the supplier culpably breaches its obligation, a contractual penalty in the amount of 10,000 € shall become due and payable immediately for each culpable breach. The supplier shall retain the right to have the contractual penalty determined by a court decision. Damages shall be set off against any paid contractual penalty.

## 11. Miscellaneous

Place of Fulfillment for all performances is the place of destination specified by TSI. The contractual relationship shall be governed by the laws of the Federal Republic of Germany, excluding the German conflict laws and the rules and provisions of the Convention on Contract for the International Sale of Goods (CISG). The competent place of jurisdiction is Hamburg, Germany. Notwithstanding the foregoing, TSI will also be entitled to bring suit against the supplier at any other court of competent jurisdiction. If a specific provision of these Purchase Terms should be or become invalid or impracticable, the validity of the remaining provisions should not be affected thereof.