

# **General Purchasing Conditions of the Julius Meinl Group**

## **1. Validity of the Conditions of Purchase**

- 1.1. Orders for supply of goods or services (hereinafter "Supplies") placed by Julius Meinl Austria GmbH or any of its Affiliated Companies (together hereinafter referred to as "Purchaser") shall – unless agreed otherwise – be governed exclusively by the following General Purchasing Conditions (hereinafter "GPC"). This also applies in case deviating terms and conditions of the contractor (hereinafter "Contractor") remain undisputed or reference is made to documents of the Contractor. Deviating conditions of a Contractor will only apply if the Purchaser has given its written consent. For the purposes of the GPC, "Affiliated Company" means any entity that directly or indirectly controls, is controlled by, or is under common control with Julius Meinl Austria GmbH or Julius Meinl Industrieholding GmbH within the meaning of § 189a UGB. An entity "controls" another entity if it holds fifty percent (50%) or more of the voting rights for the board of directors or other mechanism of control for the other entity.
- 1.2. In the event that the Contractor's order confirmation differs from the Purchaser's order with respect to prices or conditions, the Purchaser has to give its consent for the conclusion of the contract. The Purchaser's silence does not mean consent or acceptance.
- 1.3. The present GPC shall also govern future orders of the Purchaser or contracts with the Contractor, even if the GPC are not sent to the Contractor again or reference is made to them again. Deviating terms and conditions of the Contractor shall not bind the Purchaser in this case either.

## **2. Offers**

Offers made by the Contractor to the Purchaser shall be free of charge and non-binding for the Purchaser, even if they have been issued at the request of the Purchaser. When submitting an offer, the Contractor shall adhere precisely to the Purchaser's request and shall expressly point out any deviations. The offer documents will not be returned to the Contractor.

## **3. Orders**

- 3.1. Orders shall in general be placed in writing or via fax, specifying the order number and the ordering department of the Purchaser. Orders placed orally or by telephone as well as changes to an existing order shall require written confirmation by the Purchaser. For the avoidance of doubt, this shall also apply to orders based on a written offer by the Contractor.
- 3.2. Upon submission of an offer or start of the execution of the order, the Contractor confirms that he approves the documentation on which the order is based (e.g. plans, technical specifications, descriptions, measures, etc.) and that he did not detect any incompleteness or inaccuracy and that the documentation provided was sufficient for a definite price calculation. The Contractor hereby explicitly waives his right to assert any claims arising from any errors relating to the prices offered to the Purchaser under this agreement.
- 3.3. Orders, arrangements, ancillary agreements and changes or supplements to ordered Supplies agreed with non-authorized representatives of the Purchaser shall only be valid if expressly accepted in writing by authorized representatives of the Purchaser.
- 3.4. All items and documents (e.g. plans, trademarks, logos, designs, samples, recipes, etc.) associated with enquiries or orders shall remain intellectual and material property of the Purchaser and may not be used for purposes other than those intended without the prior written consent of the Purchaser. The Contractor shall return all such items and documents to the Purchaser either together with the submitted offer or, at the latest, after processing the order. Furthermore, the provisions on confidentiality (Clause 16) shall apply.
- 3.5. All relevant contract documents (e.g. orders, enquiries) must contain the order number and ordering department of the Purchaser, as without this information the documents shall be deemed as not submitted or not delivered.

## **4. Samples**

The Purchaser assumes no liability for non-requested samples and other illustrative material (together "Samples"). Requested Samples will only be returned to the Contractor upon written request of the Contractor and at the Contractor's costs. By no means a sample delivery shall constitute a supply and unless agreed otherwise the Contractor waives any claims resulting thereof vis-à-vis the Purchaser.

## **5. Pricing**

- 5.1. Unless otherwise agreed, prices are net prices, including package and, delivery to the place of performance (DDP Delivered Duty Paid pursuant to Incoterms) and are fixed prices. The offered prices have to include all costs of a complete performance in respect of the ordered Supplies. Additional costs may not be charged; this relates in particular to all costs for transportation, insurance, packing, taxes, duties related to the Supplies and services rendered by the Contractor.
- 5.2. If in the opinion of the Contractor a supply requested by the Purchaser is not included in his contractual obligations, the Contractor has to inform the Purchaser immediately and in the form of an additional and written offer. Delivery of the additional supply may not start before the Purchaser has given his consent. If the Contractor provides a supply not included in the contract and without prior written agreement, the Purchaser shall not be obliged to pay any consideration.

## **6. Payment terms**

- 6.1. The order number of the Purchaser and the order date have to be noted on every invoice and delivery note. The Purchaser may refuse acceptance of the Supply or may return accepted Supplies at the costs and risk of the Contractor, if the purchase order number is missing.
- 6.2. After the performance of the supply and/or service as ordered, invoices must be addressed to Julius Meinl Austria GmbH, Julius Meinl-Gasse 3-7, 1160 Vienna, Austria, and must comply with the formal requirements according to the Value Added Tax Act. Invoices can be sent to the Accounting Department by e-mail. ([incoming-invoice@meinl.at](mailto:incoming-invoice@meinl.at))
- 6.3. Unless otherwise agreed in writing standard payment conditions shall be sixty (60) days after receipt of invoice or delivery, whichever is later, at net price or thirty (30) days after receipt of invoice or delivery, whichever is later, at net price less 3% cash discount.
- 6.4. Invoices showing factual or accounting deficiencies shall only be accepted after correction. In the event of an incorrect invoice, the payment period shall commence upon receipt of the corrected invoice. In the event of defective performance or delivery, the Purchaser shall be entitled to withhold payment without loss of discounts until the order has been duly delivered.
- 6.5. Payments may be made by bank transfer to the bank account specified in the invoice. Payment to a bank located in Austria with a concurrent transfer order to the Contractor shall be deemed as payment to the Contractor. The receipt of the transfer order at the bank shall be sufficient for the payment to be seen as punctual.
- 6.6. All bank charges shall be borne by the Contractor.
- 6.7. Payments made by the Purchaser shall not be deemed as acceptance of the propriety of the supply and/or service, in particular, the Purchaser does neither waive its claims arising out of warranty nor its claims for damages.
- 6.8. The assignment of any amounts due is valid only upon the Purchaser's prior written consent.

## **7. Set off**

The Contractor is not entitled to set off in respect of claims the Purchaser has against the Contractor. However, the Purchaser is entitled to set off against claims vis-à-vis the Contractor. The Purchaser is entitled to set off invoices against the Contractor's claims, even if the Contractor's invoice is not yet due or is issued in a different currency than the Contractor's liabilities.

## **8. Delivery, shipping, and packaging**

- 8.1. The delivery must be in accordance with the order of the Purchaser in terms of execution, scope and division into partial deliveries.
- 8.2. All deliveries must include a correct delivery note containing all details of the order.
- 8.3. Partial, outstanding or sample deliveries are to be marked as such.
- 8.4. Preliminary or partial deliveries, as well as increased or reduced quantities are only permissible with the prior written consent of the Purchaser. The resulting additional costs shall be borne by the Contractor. A delivery is considered to be a partial delivery if it is delivered without proper, incomplete or incorrect delivery documents and/or shipping documents. In such case, the goods will be stored at the risk and expense of the Contractor.
- 8.5. The Contractor shall inform the Purchaser without delay if he is unable to comply with the agreed delivery periods/deadlines and delivery dates, stating the expected duration of the delay. The Contractor shall take all appropriate measures at his own expense to keep delays as short as possible. Contractor's responsibility for the timely performance of the Contract shall not be affected.
- 8.6. Supplies shall be properly packed in accordance with the (shipping) instructions of the Purchaser. Risks and costs of packaging, including costs of waste disposal, shall be borne by the Contractor.
- 8.7. The Contractor is obliged to comply with the relevant laws and regulations, duly issued certificates of origin, other goods certificates and documents and to submit those in a timely and proper manner. The Contractor shall indemnify and hold harmless the Purchaser against all claims arising from the failure to comply with the shipping instructions and/or the failure to properly provide the aforementioned documents.
- 8.8. Goods with expiry date or a best-before date must be delivered in such way that the customary in trade remaining time is available to the Purchaser.

## **9. Penalty**

- 9.1. Delivery and completion dates determined by the Purchaser are fixed dates and shall mean that the goods are available at the place of performance. In the event of default for late delivery, the Purchaser is entitled to rescind the agreement without any obligation to provide a grace period and notwithstanding any further and additional claims.
- 9.2. Any damages caused by late delivery of the Contractor will be borne by the Contractor. Regardless of the exercise of further claims for damages, liquidated damages in the amount of 5% of the gross amount of the contract can be claimed by the Purchaser. The Purchaser is entitled to this right regardless of whether the Contractor is responsible for the default.

## **10. Risk, Ownership**

- 10.1. The transfer of risk shall be in accordance with the Incoterm DDP in case no other agreement exists.
- 10.2. In the case of supply agreements, the final acceptance of the goods occurs after the Purchaser's verification at the place of performance.
- 10.3. With regard to services, an acceptance of the rendered service by the Purchaser takes place after the service is verified.
- 10.4. The ownership of the goods is transferred to the Purchaser concurrent with the payment of the purchase price. An enhanced retention of title is not permitted.

## **11. Manufacturing equipment and documents**

- 11.1. Manufacturing equipment and documents provided by the Purchaser to the Contractor shall remain the exclusive property of the Purchaser.
- 11.2. The Contractor shall keep, maintain, store and insure the Purchaser's equipment at his own expense.

## **12. Warranty**

- 12.1. The Contractor guarantees that the goods will comply with the stipulated specifications for their entire lifetime. The Contractor's warranty obligation applies to all goods delivered by him, even if parts thereof or these were not manufactured by the Contractor. In case of corrective measures, the said period starts anew. The Purchaser may raise any warranty claim by notifying the Contractor in writing, filing a complaint in court is not required. In case of such notification, the warranty period shall be deemed suspended.
- 12.2. If a product is defective, the Purchaser is entitled to claim immediate replacement or rectification of the defect or a price reduction as well as compensation; this applies also in case of minor defects. If the Contractor does not comply with the Purchaser's request for replacement, rectification, price reduction or compensation for damages, the Purchaser may rescind the contract.
- 12.3. The Contractor waives the objection of late notification of defects. The obligation to notify in accordance with §§ 377 f UGB is hereby expressly waived. A complaint can be made at any time, in particular for hidden defects. The statutory time limits for the judicial enforcement of claims commence with the end of the guarantee period.
- 12.4. In urgent cases, in case of imminent danger, in case of refusal to rectify the defect and/or to provide a replacement delivery, the Purchaser shall be entitled to rectify the defects at the expense of the Contractor, without prejudice to the Contractor's liability.
- 12.5. The corrective action has to be taken immediately upon request of the Purchaser. The corrective action has to be covered, if necessary and in compliance with applicable laws, in multi-shift operation or by overtime.
- 12.6. If defects in the same or different parts of the delivered goods, arise again despite a replacement within the warranty period the Contractor must solve it and identify the causes of deficiencies through appropriate measures, such as change in manufacturing processes, product composition, etc.
- 12.7. The Contractor shall ensure that all substances, production and packaging materials that come into contact with foodstuffs during processing or packaging comply with the relevant law and in particular with the requirements of food laws and other related regulations.
- 12.8. The Contractor shall ensure that the delivered goods are in microbiologically safe condition and that they do not contain any physiologically harmful or prohibited substances.
- 12.9. The Contractor shall, at the request of the Purchaser, provide all relevant certificates, permits and other documentation as required.

## **13. Product Liability**

- 13.1. The Contractor is obliged to refund the Purchaser with regard to the supplied products, including parts of products, for product liability damages and is obliged to indemnify and hold harmless the Purchaser against third party claims. This relates to personal injury as well as damage of goods.
- 13.2. Furthermore, the Contractor is obliged to unrequitedly deliver, along with the delivered products and as required for their intended use, all documents instructions, drawings etc. relating to the supplied products.
- 13.3. If the Contractor becomes aware of circumstances potentially leading to product liability claims, the Contractor is obliged to immediately notify the Purchaser and to fully indemnify the Purchaser for all damages, which the Purchaser has incurred in the course of any recall of defective products or for any third party compensation.
- 13.4. If legal disputes shall arise in product liability cases, the Contractor is obliged to deliver to the Purchaser all necessary evidence and to use best endeavours to support the Purchaser and to indemnify the Purchaser for all reasonable costs, incurred in legal proceedings.

## **14. Intellectual Property, liability**

- 14.1. The Contractor represents and warrants in respect of the offered products and/or services effected to the Purchaser that these products or services shall not infringe upon any third party's intellectual property rights and that he has the right and in particular any required license to offer the products to the Purchaser.

- 14.2. The Contractor warrants to the Purchaser unlimited right of use of delivered products and/or services. The Contractor is obliged to fully indemnify, defend and hold harmless the Purchaser against any third party claim arising out of infringement or alleged infringement of patents, trademarks, designs or copyrights of third parties.
- 14.3. The Contractor shall be liable without limitation in accordance with the statutory provisions for his own actions as well as for the actions of his agents.

## **15. Force Majeure**

- 15.1. "Force Majeure" means the occurrence of an event or circumstance ("Force Majeure Event") that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that the party affected by the impediment ("the Affected Party") proves:
- (a) that such impediment is beyond its reasonable control; and
  - (b) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
  - (c) that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party.
- 15.2. According to the parties, Force Majeure Events include and to the extent such events satisfy the criteria in Clause 15.1, in particular, war, riot, rebellion and revolution, insurrection, act of terrorism, currency and trade restriction, embargo, sanction, natural disaster or extreme natural event, epidemics and pandemics, general labour disturbance such as boycott, strike and lock-out, occupation of factories and premises.
- 15.3. If a Force Majeure Event leads to a limitation or cessation of the Purchaser's production operations or prevents the transport of goods or products manufactured by the Purchaser to customers, the Purchaser shall be released from acceptance and payment obligation for the duration of the effect of such disruptions. If required, the Contractor shall properly store the goods until they are taken over by the Purchaser or the Purchaser's customers.
- 15.4. Where a contracting party fails to perform one or more of its contractual obligations because of default by a third party whom it has engaged to perform the whole or part of the contract, the contracting party may invoke Force Majeure only to the extent that the requirements under Clause 15.1 are established both for the contracting party and for the third party.
- 15.5. The Affected Party shall give notice of the event without delay to the other party.
- 15.6. A party successfully invoking this Clause is relieved from its duty to perform its obligations under the Contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. The other party may suspend the performance of its obligations, if applicable, from the date of the notice.
- 15.7. Where the effect of the impediment or event invoked is temporary, the consequences set out under Clause 15.6 above shall apply only as long as the impediment invoked prevents performance by the Affected Party of its contractual obligations. The Affected Party must notify the other party as soon as the impediment ceases to impede performance of its contractual obligations.
- 15.8. The Affected Party is under an obligation to take all reasonable measures to limit the effect of the event invoked upon performance of the contract.
- 15.9. In the case a Force Majeure Event lasts longer than two (2) weeks, the Purchaser is entitled to terminate the contract or parts of the contract by notification. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120 days.

## **16. Data protection and Duty of Confidentiality**

- 16.1. The Contractor is obliged to hold in strict confidence all information, submitted by the Purchaser to the Contractor pursuant to, or in connection with the performance of an order unless expressly released from this obligation by the Purchaser in writing and to fully comply with applicable data protection legislation.

16.2. Any breach of this duty of confidentiality entitles the Purchaser to immediate termination for cause of the contractual relationship with the Contractor.

16.3. The Contractor is not allowed to use in its code of business the Purchaser's name or trademarks, models and designs owned by or licenced to the Purchaser in any advertisements, brochures, banners, letterheads, business cards, reference lists or similar advertisements without the Purchaser's prior written consent.

## **17. Supplier Code of Conduct**

17.1. The Contractor is obliged to comply with the Purchaser's Code of Conduct for Suppliers (the "Code of Conduct") in its current version at the time of the placement of the order. The Contractor is furthermore obliged to ensure compliance with this Code of Conduct among its suppliers and subcontractors.

17.2. If the Contractor fails to comply with its obligations under the Code of Conduct, the Purchaser shall be entitled to terminate all contractual relations with the Contractor and to withdraw from existing contracts or orders.

17.3. The up-to-date Code of Conduct is available at:  
<https://juliusmeinl.com/Code-of-Conduct>

## **18. Severability**

If any provision of this conditions is or becomes invalid, ineffective or unenforceable as a whole or in part, the validity, effectiveness and enforceability of the remaining provisions of this Agreement shall not be affected thereby. Any such invalid, ineffective or unenforceable provision shall, to the extent permitted by law, be deemed replaced by such valid, effective and enforceable provision as comes closest to the economic intent and purpose of such invalid, ineffective or unenforceable provision.

## **19. Writing**

Changes and additions to these GPC and other contractual agreements must be in writing.

## **20. Place of Performance**

Place of performance is the location of installation or storage at the respective business address of the Purchaser, unless otherwise provided for in the order or explicitly agreed differently with the Purchaser in writing.

## **21. Governing Law and Place of Jurisdiction**

Contractual relations subject to the terms of these GPC shall be governed by Austrian law, excluding the Austrian conflicts of laws rules and excluding the United Nations Convention on Contracts for the International Sale of Goods. The place of jurisdiction shall be the competent court in Vienna.

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