

Nordzucker Polska S.A.
General Terms and Conditions of Purchase
- Solely for commercial transactions -

1. General

- 1.1. For all orders and purchases by Nordzucker Polska S.A. (hereinafter referred to as the "Buyer") from a third party (hereinafter referred to as the "Supplier") the present General Terms and Conditions of Purchase (hereinafter referred to as the "General Terms") shall apply exclusively; conflicting terms or conditions of the Supplier differing from the General Terms are not acknowledged by the Buyer, unless – and solely to the extent – the Buyer has explicitly given its consent to them in writing. The General Terms shall also apply if the Buyer unconditionally accepts the deliveries and services, fully aware of any conflicting or differing terms and conditions of the Supplier.
- 1.2. For the purpose of the General Terms "Products" shall mean any and all goods, works and/or services to be delivered or performed by the Supplier to the Buyer. Business day means a day except Saturday, Sunday or an official public holiday concerning the Buyer (hereinafter referred to as "Business Day").
- 1.3. To be valid changes or amendments to the General Terms must be agreed in writing between the Supplier and the Buyer.

2. Offer, Orders, Amendments

- 2.1. To be effective, orders shall be placed in writing.
- 2.2. If the Supplier is not able to meet the Buyer's order or any requirements contained therein, the Supplier shall with undue delay after receipt of the order notify the Buyer thereof in writing.
- 2.3. Any alteration, amendment or addition to the order shall only become a part of the agreement if both parties accept such in writing.
- 2.4. Documents, specifications, quality guidelines and descriptions which are submitted or referred to by the Supplier shall be deemed integral parts of the Supplier's offer.
- 2.5. The Supplier shall bear its own disbursements and costs incurred during the phase of offer making and negotiation, in particular for visits, planning for offers and projects, cost estimates, drawings etc.

3. Prices

- 3.1. The agreed prices shall be fixed.
- 3.2. Costs, taxes, customs duty and other levies shall be borne by the Supplier. If these levies, however, are increased by mandatory law or new levies are implemented by mandatory law after the order placement, such additional amount or levies shall be borne by the Buyer.

4. Transport

- 4.1. The delivery term is DDP, at the agreed place of destination (Incoterms[®] 2010), unless otherwise agreed in writing.
- 4.2. Foodstuffs must be transported in road tankers dedicated and marked for foodstuffs only in accordance with EU regulation (EC) No. 852/2004 and other applicable laws and regulations.
- 4.3. If chemicals and/or waste are to be transported, the Supplier shall transport this in accordance with applicable law and regulation.
- 4.4. The party who is responsible for handling the transport of the Products is responsible for taking out and maintaining transport insurance and pay the costs related hereto.

5. Transfer of Risk

- 5.1. The risk of the Products shall pass to the Buyer according to the abovementioned Incoterm (cf. clause 4.1), however, in no event prior to an agreed delivery date, cf. clause 7.5. For deliveries involving installation, commissioning or services, the transfer of risk occurs upon written acceptance by the Buyer.

6. Time of Delivery, Delay

- 6.1. For the purpose of establishing the point in time of delivery or rectification (cf. clause 11), the relevant point in time is the date of receipt at the agreed place of destination, and for deliveries involving installation, commissioning or rectification services, the relevant point in time shall be the date of acceptance by the Buyer. If a delivery period has been agreed, it shall begin with the date of the order.
- 6.2. Title to the Products shall pass to the Buyer upon delivery (cf. clause 6.1).
- 6.3. In case of delay caused by the Supplier, the Supplier is obliged to pay a contract penalty of 0.2 % of the total contract value in respect of each commenced day of delay but not more than a total of 10 % of the total contract value. Payment of contract penalty shall not in any way limit the Buyer's right to claim damages in accordance with applicable law or these General Terms. The contract penalty shall, however, be deducted in the amount of damages.
- 6.4. In case of material delay in relation to an agreed date of delivery, the Buyer shall without first setting a new deadline for delivery and notwithstanding the aforementioned section 6.3 or other statutory claims, be entitled at its own discretion to cancel the agreement in whole or in part or to procure replacement from a third party in a reasonable manner and claim compensation for damages.
- 6.5. Where any delay in delivery or performance or rectification can be anticipated, the Supplier shall notify the Buyer thereof immediately in writing stating the reasons for the delay.

7. Delivery Notes, Labelling, Packaging

- 7.1. A delivery note shall accompany each delivery containing at least the following information:
- the Supplier's name, postal address, email address and telephone number
 - name of Products, description of the Products
 - volume/quantity
 - place of destination
 - the Buyer's order number and date of the order

- article number and production/batch numbers of the Supplier and/or the manufacturer and, if available or agreed, material/batch numbers of the Buyer
- labelling information (see section 7.2)
- certificate of analysis if applicable or agreed

7.2. The Supplier guarantees that all Products are labelled and packed in accordance with applicable laws, rules and regulations at the agreed place of destination, this including traceability requirements. The labelling shall feature in all delivery notes.

7.3. In respect of any product assertions made by the Supplier, the Supplier shall provide a third party statement confirming such product assertions at the Buyer's request.

7.4. The Supplier is obliged to inform the Buyer of any and all substances in the Products, if the Buyer so requests.

7.5. The Buyer is not obliged to take delivery of the Products outside normal business hours of the agreed place of destination, before the agreed delivery date or partial delivery. Should the Buyer agree to delivery before the agreed delivery date, the Products shall be stored with the Buyer at the expense and risk of the Supplier until the agreed delivery date.

7.6. The Products to be delivered shall be packed to avoid damage during transportation. Packaging material shall be used only to the extent required to achieve this aim.

8. Inspection

8.1. If the Buyer is required by mandatory law, the Buyer shall without undue delay after receipt examine whether a delivery corresponds to the quantity and type of products ordered and whether there are any external visible transportation damage or other visible defects or deficiencies. Such external and visible examination shall not in any way preclude or limit the Buyer's right to initiate remedial actions according to applicable law and these General Terms for defects or deficiencies that were not ascertained during such examination ("hidden defects or deficiencies").

8.2. Should the Buyer discover any visible defects or deficiencies in the course of these examinations, it shall inform the Supplier of such defects or deficiencies within fourteen (14) Business Days from the discovery. Should the Buyer discover a hidden defect or deficiency at any later stage, it shall also notify the Supplier within fourteen (14) Business Days from such discovery.

9. Invoices

9.1. The Supplier may only issue invoices after delivery of the Products in question.

9.2. All invoices shall be issued in accordance with all applicable laws and regulations and shall in any case contain at least the information as set out in section 7.1 except for labelling information and certificate of analysis. Insofar as any such details are omitted, invoices shall not be payable.

10. Payment, Offsetting, Assignment of Claims

10.1. Payment term is fourteen (14) days with 2 % discount or within thirty (30) days net after receipt of correctly issued invoice from the Supplier at the Buyer's discretion; however the Buyer shall always be entitled to make payment on the Wednesday following the expiry of the payment term without payment being considered a late payment or being subject to any late payment penalty or interest. Should the respective Wednesday be an official public holiday concerning the Buyer, the payment shall be made on the following Business Day.

10.2. In case of late payment, the Supplier shall only be entitled to claim interest and fees according to the applicable law.

10.3. The Buyer shall be entitled to offset counterclaims against the Supplier's claims to payment.

10.4. Assignment of any claim is only allowed with the prior written approval of the Buyer.

10.5. Payments made by the Buyer shall not constitute any waiver of rights in respect of defects or deficiencies or any other right under applicable law and these General Terms.

11. Defects, Warranty

11.1. The Supplier warrants, guarantees and represents that the Products are strictly in accordance with the order and the agreed specifications. Furthermore, the Supplier warrants that the Products comply with all applicable EU law and regulation and all applicable law and regulation at agreed place of destination.

11.2. If the Products are defective or otherwise do not comply with the abovementioned warranty (section 11.1) the Supplier must at its own expense and at the sole discretion of the Buyer either repair the defects or replace the defected Products within a reasonable period of time set by the Buyer. The discretion of the Buyer shall be exercised fairly and reasonably. This provision also applies to deliveries subject to inspection of sample tests.

11.3. The Supplier shall bear the costs and risks related to the return of defected Products.

11.4. Should the Supplier fail to rectify (i.e. repair or replace) any defect within a reasonable period of time set by the Buyer, the Buyer is entitled at its own discretion to either:

(I) cancel the agreement in whole or in part without being subject to any liability for damages; or

(II) demand a reduction in price; or

(III) undertake any repair (by itself or third party) at the expense of the Supplier.

11.5. Any rectification (i.e. repair or replacement) may be required by the Buyer without setting a reasonable period of time if the Buyer has a strong particular interest in immediate rectification in order to avoid any liability of its own for delay or for other reasons of urgency.

11.6. Nothing in section 11.1. to 11.5 shall restrict the Buyer's right to claim damages.

11.7. If the Supplier provides subsequent performance or repairs, the warranty period set out in section 11.8 shall begin to run once again.

11.8. The warranty period is three (3) years, insofar as no statutory provisions provide longer periods.

11.9. The warranty period begins to run with the transfer of risk (see section 5).

11.10. Additional or other statutory rights of the Buyer are not affected hereby.

12. Intellectual Property Rights

12.1. The Supplier warrants, guarantees and represents that the Products delivered to the Buyer do not infringe any third-party intellectual property rights.

12.2. The Supplier shall indemnify and hold harmless the Buyer from any and all claims arising out of an infringement, direct or indirect, of any third party's intellectual property rights and any costs or expenses (e.g. reasonable attorney fees) in this connection.

12.3. In case of breach of this warranty, the Supplier will, at its sole expense and to the extent possible, procure the necessary licenses or approvals to use the Products, or – at Buyer's discretion – replace or modify the Products to an equal or better quality complying with the agreed specifications and requirements and thereby rectify the infringement.

13. **Subcontracting to Third Parties**

13.1. Subcontracting to third parties requires the prior written consent of the Buyer. However – and notwithstanding the Buyer's consent – the Supplier shall at all times still be responsible for any obligation according to the agreement, this including the General Terms.

14. **Confidentiality**

14.1. The order, the agreement and all associated documents as well as information which is exchanged as business secrets between the parties during the course of the business relations shall be kept as confidential by each party. Each party shall impose a similar commitment on its subcontractors. The breaching party shall be liable for all direct and proven loss and damage suffered by the other party due to the violation of this confidentiality obligation.

14.2. The obligations to maintain confidentiality shall not apply to the extent that the party is or becomes under an obligation to disclose confidential information (i) by order of a court of competent jurisdiction or governmental order, or (ii) under statutory law, provided that where possible the disclosed party shall first notify the other party of such obligation and upon request allow the other party to advance any defence against such obligation where appropriate.

14.3. The parties shall be entitled to disclose confidential information to their affiliated companies.

15. **Material of the Buyer**

15.1. Any material provided by the Buyer to the Supplier shall remain the property of the Buyer and shall only be used to carry out the agreement. The Supplier shall in any event be liable for damage to, destruction and/or loss of such material or parts according to applicable law.

16. **Liability**

16.1. The Supplier shall be liable for any and all damage in accordance with applicable law arising out or in connection with, either directly or indirectly, any acts or omissions of the Supplier, including (without limitation) damages resulting from any breach by the Supplier of these General Terms, contracts and orders concluded or made thereunder, breach of legally binding regulations, tort or damages caused by a defect in the Products..

16.2. The Supplier promises and undertakes to indemnify and hold harmless (as the indemnifying party) the Buyer, its affiliates, officers, directors, employees and agents (as the indemnified party) from and against any and all direct, indirect or consequential damages, losses, demands, claims, liabilities, cost and expenses (including without limitation the costs of any cautionary recall action, court costs and reasonable attorney fees) as well as penalties, by whomever asserted, resulting from the Supplier's breach of any of its contractual obligations (including any breach of warranty or representation) under these General Terms, contracts or orders concluded or made thereunder, acts in breach of legally binding regulations, negligent acts or omissions, wilful misconduct or caused by a defect in the Products. The Supplier shall be responsible for actions or omissions of its officers, directors, employees, agents, and contractors.

16.3. In the event that a third party commences proceedings for damages or raises claims against the Buyer in connection with the Products purchased by the Buyer from the Supplier, the Buyer shall immediately notify the Supplier in writing. The Supplier shall submit to the jurisdiction where a third party commences proceedings against the Buyer.

16.4. The Products shall be labelled so that it is permanently recognisable who the manufacturer of the Products is, to the extent this is technically possible.

16.5. The Supplier shall inform the Buyer immediately if the Supplier has a suspicion that delivered Products might be injurious to health or unfit for the contact with goods for human consumption (where applicable) or otherwise defective. The same applies if the delivered Products might lead to such circumstances.

17. **Insurance**

17.1. The Supplier shall take out and maintain insurance coverage against all general liability and product liability risks in an amount that is appropriate and adequate. The Supplier shall provide an insurance certificate to the Buyer, if the Buyer so requests.

18. **Work Conditions at the Buyer's location**

18.1. If work is to be executed at the Buyer's location, the Supplier shall adhere to any and all applicable laws and regulations as well as any guidelines given by the Buyer regarding environment, health and safety, site security and food safety at the Buyer's location and will bear all liability in this respect. The Supplier shall, however, also comply with any local rules and instructions which are informed (in any form) by the Buyer; however, such local rules and instructions are subsequent to the applicable law. If the Supplier shall carry out hot work in silo facilities or storages or the like, the Supplier shall especially be aware of and comply with special rules and guidelines regarding hot work.

18.2. The Supplier shall ensure that its employees and all sub-contractors' employees (if any, cf. clause 13) are given the necessary information and training in relation to environment, health and safety, site security and food safety and in relation to the specific task in question. The Supplier shall at any time be able to document that all basic education which is required for the specific task in question is in place for the relevant employee who is to perform the task (e.g. for welding, truck driving, fork lift driving, hygiene etc.).

18.3. The Supplier shall report any work accident and any event or situation with potential influence on environment, health and safety, product safety or quality to the Buyer in writing, this including a description of the work accident and the duration of the employee's absence resulting from the work accident.

18.4. The Supplier shall provide for all safety equipment including personal protection equipment. The Supplier and its employees on-site are responsible for the functionality, handling, storing and protection of own equipment, tools and materials. The Buyer shall have no liability for this.

18.5. The Supplier shall be responsible for order and tidiness at the Supplier's working area at the Buyer's location and shall ensure regular cleaning hereof. If the Supplier does not comply herewith, the Buyer shall be entitled to clean up the area on the Supplier's account; provided, however, that the Buyer has given the Supplier one (1) days' notice in advance.

18.6. In case any employee of the Supplier or its sub-contractors (if any, cf. clause 13) does not comply with the abovementioned laws, guidelines, requirements etc. the Buyer shall be entitled to dismiss the relevant employee from the Buyer's location. The Supplier shall at its own costs replace the dismissed employee. Furthermore, the Supplier shall be responsible for any costs that the Buyer (or third party) might suffer due to the employee's non-compliance.

19. **Quality Assurance System**

- 19.1. The Supplier shall conduct quality assurance in a manner and scope consistent with at minimum general good manufacturing practice and provide evidence thereof to the Buyer if so requested. The Supplier shall enter into an appropriate quality assurance agreement with the Buyer if the latter deems this necessary.
- 19.2. If Products to be delivered are food products, processing aids or packaging materials, the Supplier is obliged to retain samples of each batch/delivery and to store these for minimum nine (9) months.
- 19.3. The Supplier undertakes to secure the flawless quality of the delivery to the Buyer and to check this before the items pass to the outgoing goods department.
- 19.4. If test results relate to the Products delivered to the Buyer, these shall be documented and kept as evidence of quality. The Buyer shall be entitled to fully inspect the records/documents of the Supplier relating to the Products delivered to the Buyer.

20. **Supplier Code of Conduct**

- 20.1. The Supplier shall comply with the Buyer's Supplier Code of Conduct, which is available at: http://nordzucker.pl/uploads/media/Kodeks_dostawcy.pdf

21. **Breach of Obligations**

- 21.1. Both parties shall be entitled to terminate the agreement in whole or in part in the event that the other party breaches any of its obligations under the agreement. Before terminating the agreement the non-breaching party is obliged to serve a notice requiring the breach to be remedied within ten (10) Business Days, provided, however, that such breach is suitable for being remedied. The breaching party's failure to remedy according to such default notice will constitute a material breach of the agreement and the non-breaching party is entitled to terminate the agreement in whole or in part in writing without further notice.
- 21.2. In the event either party shall become subject to bankruptcy, insolvency, under liquidation or similar circumstances, the other party shall be entitled to terminate the agreement immediately in whole or in part by giving the other party a written notification thereof.

22. **Force Majeure**

- 22.1. Neither party shall be responsible for any delay or other failure in performing its obligations under the General Terms, this including the agreement, if such breach is caused by a Force Majeure event.
- 22.2. Force Majeure means an event beyond the reasonable control of the party affected thereby. Force Majeure shall comprise but shall not be limited to fires, floods, earthquake, explosions, epidemics, riots, strikes, lockouts and intervention by the state or other authority. Failed, delayed or otherwise missing deliveries from the Supplier's sub-suppliers or sub-contractors shall not constitute an event of Force Majeure for the Supplier.
- 22.3. If a Force Majeure event occurs, the affected party shall promptly give notice thereof to the other party. The affected party shall use its best efforts to cure or correct such event of Force Majeure and resume performance hereof within the shortest period of time.
- 22.4. If the Force Majeure event continues for more than thirty (30) days, either party shall have the right to terminate the agreement with immediate effect by giving written notice.

23. **Sanction Clause**

- 23.1. The Supplier represents and warrants that neither it nor any of its affiliates is a designated target of applicable economic or financial sanctions promulgated by either the European Union, the United States, the United Nations, or the country of origin of the Products ("Sanction Laws"). The Supplier further represents and warrants that it complies with all applicable Sanction Laws and that the purchase or import of the Products sold under this agreement will not cause a violation of the applicable Sanction Laws. The Supplier agrees to cooperate with Buyer's reasonable requests for information or documentation to verify compliance with this clause.
- 23.2. The Buyer is not obliged to perform the agreement and is entitled to terminate the agreement without notice (regardless of clause 22) if the Buyer has knowledge or reasonable cause to suspect that the Supplier violates the representations and warranties set out in clause 23.1 above. The Supplier is excluded from raising a claim against the Buyer for any damage or other rights due to the termination of the agreement.
- 23.3. The Supplier shall on demand indemnify the Buyer against all liabilities, costs, expenses, damages and losses suffered or incurred by the Buyer arising out of or in connection with any violation of the Supplier's representations and warranties set out in clause 23.1 above unless the Supplier was not responsible for such violation.

24. **Governing Law and Jurisdiction**

- 24.1. The General Terms, as well as any order, delivery and agreement between the Supplier and the Buyer according to these General Terms, shall be governed by and construed in accordance with Polish law, excluding however the Private International Law regarding conflicts of laws. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 24.2. The Supplier and the Buyer agree that any dispute or claim arising out of or in connection with the agreement and/or the General Terms, or the breach, termination or invalidity thereof shall be exclusively settled by the competent court of law with jurisdiction for the Buyer's registered office.

25. **Miscellaneous**

- 25.1. For the purpose of these General Terms the wording "in writing" shall always include written electronically form (e.g. fax, email etc.).
- 25.2. Upon prior notification to the Supplier, the Buyer shall at all times be entitled to assign or transfer all or part of its rights and obligations under the agreement to a company within the Nordzucker Group.
- 25.3. If any term of the General Terms is found to be illegal, invalid or unenforceable under applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from the General Terms and shall in no way affect the legality, validity or enforceability of the remaining terms.
- 25.4. Any waiver by the Buyer of a breach of any provision of the General Terms shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.