

## **General Terms and Conditions (Non-Food)**

for the Purchase of Goods, Services, Machinery and Equipment

### **Art. 1 General provisions**

- (1) These General Terms and Conditions for the Purchase of Goods (Non-Food), Services, Machinery and Equipment (hereinafter referred to as "GTC Purchase") shall apply to all present and future business relationships between us and the supplier of goods (non-food) and/or services, machinery and equipment (hereinafter referred to as "the Supplier"). They shall not apply to natural persons who conclude legal transactions solely for a purpose that cannot be attributed to their commercial or independent professional activities.
- (2) By accepting and executing a contract and/or a purchase order, the Supplier shall accept these GTC Purchase in the version valid at the time of the order. Conflicting and/or deviating general terms and conditions of the Supplier shall not be accepted and shall not become part of the contract unless their validity is expressly agreed to by us in writing upon conclusion of the contract. The GTC Purchase shall also apply if the contract is executed by the Supplier without reservation in the knowledge that the Supplier's terms and conditions conflict with or deviate from the GTC Purchase. Acceptance of a delivery or service from the Supplier by us or payment by us without objection shall not constitute consent to the Supplier's general terms and conditions. Silence in response to an order confirmation from the Supplier with conflicting statements from the Supplier shall also not constitute such consent.

### **Art. 2 Supplier Code of Conduct**

The basis for our own socially responsible behaviour towards people, animals and the environment within the value chain is compliance with all applicable laws and regulations. Fulfilling the obligations of our Supplier Code of Conduct in all aspects of our business relationships is a matter of course for us; our Supplier Code of Conduct can be accessed and downloaded on our homepage at [www.toennies.de/impresum](http://www.toennies.de/impresum). We expect our suppliers to implement the standards of our Supplier Code of Conduct as well. Consequently, the Supplier must ensure and be able to prove to us that they comply with the Supplier Code of Conduct and also demand comparable behaviour from their own suppliers and sub-suppliers. We seek a co-operative approach with our business partners in order to address and improve the situation where necessary and possible. By accepting and executing a contract and/or a purchase order, the Supplier accepts the Supplier Code of Conduct in the version valid at the time of the order, which is thus an integral part of the contract in its currently valid form.

### **Art. 3 Purchase orders and contracts**

- (1) The Supplier shall be obliged to accept our order in writing as soon as possible, quoting our order number.
- (2) If the Supplier prepares drafts, calculations, costings, project models, cost estimates, etc., this shall be done free of charge, even if such services are usually provided for remuneration.

- (3) The conclusion of the contract and all agreements made between us and the Supplier for the purpose of executing this contract must be made in writing. However, purchase orders may also be placed in text form. The Supplier must inform us immediately of any obvious errors and incompleteness in order to enable the correction of the purchase order and thus an effective conclusion of the contract.
- (4) The Supplier shall not be entitled to use the business relationship with us as a reference vis-à-vis third parties without our written consent.

#### **Art. 4 Scope of service**

- (1) The scope of service results from the respective individual order. Documents, reports, ideas, drafts, models, samples, software and hardware, as well as all other results arising from the provision of services are part of the order performance. Delivery of the agreed quality, quantity and within the agreed time limit shall be binding.
- (2) The Supplier shall be obliged to expressly indicate any deviations from our purchase order in their order confirmation in writing and highlighted in print. If the deviations in the respective order confirmation of the Supplier are significant, the conclusion of the contract requires the express written confirmation of our responsible purchasing department. The principles of the commercial letter of confirmation shall not apply.
- (3) The Supplier shall provide their services with the utmost care, taking into account the latest state of science and technology, the safety regulations of the authorities and trade associations. The Supplier shall be obliged to comply with the statutory regulations, the agreed technical specifications and any other requirements. In particular, the Supplier warrants that the goods delivered by them comply with the statutory requirements (e. g. food law requirements), the recognised rules of engineering and relevant DIN standards, statutory directives and regulations at the time of delivery, and that the goods supplied are marketable in every respect at the time of delivery at the specified place of delivery. The Supplier undertakes to regularly monitor compliance with the aforementioned regulations. Goods or services of the Supplier shall only be accepted if they fulfil all quality requirements.
- (4) The Supplier shall comply with all national, European and international customs regulations. If the Supplier's registered office is located in the EU, the Supplier shall provide us with long-term Supplier's declarations for goods with preferential origin status in accordance with the applicable EU regulation. In the case of a registered office located outside the EU, the Supplier must prove the origin of the goods by means of an official certificate of origin and enclose the necessary preferential documents. The Supplier shall indemnify us against all costs arising from incorrect statements of origin.
- (5) In the event of doubts, the Supplier shall be obliged to obtain all necessary information before commencing work and must inform us immediately in writing of any concerns they have about the manner in which we wish the service/delivery to be performed.
- (6) Machinery and machine parts must correspond to the intended use and the state of the art. The basic safety and health requirements for the design and construction of machinery in accordance with the applicable EC machinery directives must be complied with, as must the basic requirements for hygienic machine design.

If standards exist for the delivery item and/or its individual parts, these must be observed. If deviations from a standard are necessary in individual cases, the Supplier must obtain our prior written consent. The Supplier's warranty obligation shall not be affected by our consent. The Supplier warrants that the national safety conditions at the place of delivery, in particular those conditions relating to materials and objects intended to come into contact with foodstuffs, are fulfilled in the currently valid version.

- (7) All software required to operate the machine (e. g. control systems) is part of the contractual scope of delivery. The Supplier shall provide us with the rights of use to the software necessary for the application of the software for an unlimited period of time. We shall be authorised to transfer the rights of use to the software to the purchaser of the machine if the machine is resold. The corresponding licences and rights granted shall be covered by the purchase price.
- (8) Unless otherwise specified, the Supplier's scope of delivery shall include safe system performance, the preparation of all service plans, circuit diagrams and operating instructions in German, the preparation of cleaning instructions and spare parts lists - each in German, in writing and digitally -, good accessibility for operating, cleaning and maintenance work, low-wear system operation, as well as the use and usability of machinery and materials with chemical and wet cleaning suitability.
- (9) Insofar as access to our networks is necessary for the provision of the service by the Supplier, this is only permitted with our express written consent.
- (10) Insofar as the Supplier's performance relates to the delivery of commodities within the meaning of Section 2 (6) of the German Food, Commodities and Feed Code (LFGB), the Supplier warrants that the commodities manufactured and/or delivered by them comply with the relevant provisions of German and European food law, in particular the provisions of Sections 30 et seq. of the LFGB, and can be used by us without restriction for the production of foodstuffs.
- (11) The use of oils, greases, lubricants and other hazardous substances that have not been approved by us is prohibited. The necessary documents for testing, approval and inclusion in the hazardous substances register must be send to us in advance at [sdb@toennies.de](mailto:sdb@toennies.de). The General Safety and Hygiene Regulations for External Craftsmen must be complied with; these are available at [www.toennies.de/impresum](http://www.toennies.de/impresum). In accordance with the applicable legal requirements, suppliers of hazardous substances within the meaning of the Hazardous Substances Ordinance (GefStoffV) are required to provide up-to-date safety data sheets at [sdb@toennies.de](mailto:sdb@toennies.de) without being requested to do so whenever changes are made.
- (12) Upon request, the Supplier shall provide information on the composition of the delivery item, insofar as this is necessary for the fulfilment of official requirements in Germany and abroad.
- (13) Unless otherwise expressly agreed in advance or otherwise commissioned, partial deliveries shall not be permitted. In such a case, we shall be entitled to cancel the remaining quantity.
- (14) Our prior written consent shall be required for the performance of ordered supplies and services by third parties. Insofar as the Supplier uses third parties to fulfil their performance, the Supplier shall bind such third parties in the same way as the Supplier himself is bound by the order and these terms and conditions. The Supplier shall always conclude contracts with third parties in their own name and for their own account.

- (15) As long as the Supplier has not yet completely fulfilled their obligations, we shall be entitled to demand changes to the order with regard to design, execution, quantity and delivery time within the scope of reasonableness. The effects (e. g. additional or reduced costs, delivery dates, etc.) shall be mutually agreed. We may also request changes to the delivery item after conclusion of the contract, insofar as this is objectively reasonable for the Supplier. In the event of such a contract amendment, the effects on both parties, in particular with regard to additional or reduced costs and delivery dates, shall be mutually agreed.

#### **Art. 5 Spare parts**

- (1) The Supplier shall be obliged to supply spare parts for the products delivered to us, in particular machinery and equipment, for a period of at least ten years after completion of the delivery, at reasonable prices and in accordance with the conditions of the underlying purchase order.
- (2) If the Supplier intends to discontinue the production of spare parts for the products delivered to us, they shall inform us of this immediately after the decision on the discontinuation. Subject to paragraph 1, this decision must be made at least six months before production is discontinued.
- (3) Unless otherwise agreed, the Supplier shall deliver the required spare parts within 24 hours and fitters required within 12 hours of request at the site where the machine is located.

#### **Art. 6 Prices, invoice details, terms of payment**

- (1) The prices quoted in the order shall be binding. The price shall include in particular costs for freight "DDP carriage-free", in the case of machinery and equipment to the first place of installation, insurance, customs duties and packaging. The obligation to return packaging is subject to special agreement.
- (2) A delivery note shall be issued to us for each delivery. The delivery note must accompany the goods and contain the following information: supplier number, order date and order number, purchaser's material number, quantity, additional data, export control classification numbers, number/reference regarding export licences, any distribution restrictions, customs tariff.
- (3) If the scope of services also includes assembly and/or installation, the Supplier shall bear all associated costs. Any general terms and conditions of delivery and assembly of the Supplier in this respect shall expressly not become part of the contract.
- (4) Invoices should be sent electronically to the e-mail inbox of the respective Tönnies Group company. The currently valid overview of the electronic e-mail inboxes of the individual companies of the Tönnies Group is available as the document "Guidelines for electronic invoicing of the Tönnies Group" at [www.toennies.de/impressum](http://www.toennies.de/impressum). Only in individual cases in which the specific e-mail inboxes cannot be accessed on the basis of the "Guidelines for electronic invoicing of the Tönnies Group" should invoices be sent electronically to [rechnungseingang@toennies.de](mailto:rechnungseingang@toennies.de) as an alternative.
- Due invoices can only be processed if they comply with the statutory requirements, in particular the German Turnover Tax Act (UStG), and contain the order number quoted in the order, the place of delivery or the place of performance as well as the details and/or documents agreed with the order; a copy of the delivery note or our signed proof of performance must also be enclosed.

The Supplier shall be responsible for all consequences arising from non-compliance with this obligation. Incomplete or incorrect invoices will be returned to the Supplier. Incomplete or incorrect invoices for which the Supplier is responsible shall entitle us to charge an administration charge of EUR 50.00. The assertion of this claim shall not constitute a waiver of any further claim for damages.

- (5) We shall be entitled to rights of set-off and retention to the extent permitted by law. The Supplier's rights of set-off shall only apply insofar as these are undisputed or have been legally established; the Supplier may only assert a right of retention insofar as it is based on claims arising from the same contractual relationship. We shall be entitled to reduce invoice amounts by the value of returned goods and any expenses and claims for damages. We shall also be entitled to make settlements within the Tönnies Group.
- (6) Price adjustments shall only be permitted with the prior written consent of the purchaser.
- (7) The Supplier shall only be entitled to assign claims with our written consent.

#### **Art. 7 Delivery date**

- (1) The time of delivery/time of performance quoted in the order shall be binding. Delivery periods shall commence on the date of the order. The day of delivery or day of performance shall be the day of receipt of the goods by us or at the receiving centre specified by us.
- (2) The Supplier shall be obliged to inform us immediately in writing if circumstances occur or become recognisable to them which indicate that the agreed time of delivery cannot be met. Otherwise, they may no longer invoke such circumstances at a later date.
- (3) In the event of culpable delay in delivery on the part of the Supplier, we shall be entitled, after prior written warning to the Supplier, to demand a contractual penalty of 0.5% of the value of the goods to be delivered as stated in the final invoice for each day of delay commenced, but not more than a total of 5% of the value of the delivery as stated in the final invoice. The contractual penalty shall be set off against the damage caused by delay to be compensated by the Supplier. We reserve the right to assert further statutory claims. The acceptance of a delayed delivery or performance shall not constitute a waiver of claims for compensation.

#### **Art. 8 Exemption from the obligation to perform, withdrawal from contract**

- (1) Force majeure, labour disputes, operational disruptions through no fault of our own, unrest, official measures, pandemics and epidemics as well as other unavoidable events shall entitle us, without prejudice to our other rights, to withdraw from the contract in whole or in part, insofar as these circumstances result in a reduction in demand and are of considerable duration.
- (2) We shall be entitled to withdraw from the contract if the Supplier applies for the opening of insolvency proceedings, if insolvency proceedings are opened or if the opening is rejected for lack of assets.
- (3) The statutory regulations relating to the withdrawal from contracts shall remain unaffected.

#### **Art. 9 Transfer of risk, documents**

- (1) Even if despatch has been agreed, the risk shall only pass onto us when the goods are handed over at the agreed destination.
- (2) If the Supplier does not fulfil their obligations pursuant to Art. 6 (2) of these Terms and Conditions, we shall not be liable for delays in processing.
- (3) The Supplier shall be obliged to cover the risk of accidental loss or accidental deterioration of the ordered goods, services, machinery and/or equipment within the scope of a standard transport insurance policy. The Supplier hereby assigns to us in advance all claims against the transport insurer to which they are entitled and we hereby accept such assignment.
- (4) Goods must be packed in such a way that damage during transport, loading and unpacking processes is avoided. Packaging materials shall only be used to the extent necessary to fulfil the purpose. The Supplier's take-back obligations, including with regard to transport and product packaging, shall be governed by the statutory provisions. The Supplier assures that all packaging is legally licensed and registered with an appropriate system provider and that the charges for this are paid in full and properly.

#### **Art. 10 Warranty claims**

- (1) In the event of defects, we shall be entitled to the statutory claims without restriction. If the contractual performance rendered by the Supplier (goods delivered, work performed, services rendered, etc.) does not comply with the contractual specifications, we shall be entitled to demand, at our discretion, supplementary performance by remedying the defect or delivering an item free of defects (purchase contract) or remedying the defect or reproducing the work (contract for work and services). Costs incurred by us as a result of a defective or delayed delivery, such as in particular transport costs, labour costs, material costs, installation and conversion costs, as well as other comparable costs, shall be borne by the Supplier.
- (2) We shall be obliged to inspect the goods for any deviations in quality and quantity within a reasonable period; the complaint shall in any case be deemed to have been made in good time if it is received by the Supplier within a period of 10 working days (Monday to Friday) in the case of domestic procurement transactions and within a period of 28 working days in the case of foreign procurement, in each case calculated from receipt of the goods or, in the case of hidden defects, from their discovery by us; the above shall apply notwithstanding any deviating provisions in a quality assurance agreement.
- (3) In deviation from the statutory regulation, the warranty period shall be 30 months.
- (4) The Supplier warrants that the goods and deliveries comply with the applicable statutory regulations.
- (5) If the Supplier has to manufacture a movable item individually for us, the statutory regulations on acceptance shall apply. Payment shall only be due after acceptance. An acceptance report to be signed by us and the Supplier shall be drawn up on acceptance. If the work is not ready for acceptance, the Supplier shall, at our request, provide supplementary performance within a reasonable period of grace. If the Supplier is in default with the supplementary performance or if this does not produce the results desired by us, we can have the subsequent improvement or new production carried out by a third party at the Supplier's expense without setting a further deadline. The Supplier shall be obliged to surrender all material already produced for this purpose upon request.

- (6) Any other claims, in particular claims for damages due to default as a result of the remedy of defects, shall remain unaffected.
- (7) Upon receipt of our written notice of defects by the Supplier, the limitation period for warranty claims with regard to the defects covered by the notice of defects shall be suspended. In the event of replacement delivery and remedy of defects, the warranty period for replaced and repaired parts shall commence anew, unless we had to assume from the Supplier's conduct that the latter did not consider themselves obliged to take such action.

#### **Art. 11 Liability, product liability**

- (1) The Supplier shall be liable within the scope of the statutory provisions.
- (2) If the Supplier is responsible for product damage, they shall be obliged to indemnify us on first demand against claims for damages by third parties insofar as the cause lies within their sphere of control and organisation and they are liable vis-à-vis third parties. The obligation to indemnify shall also extend to all expenses necessarily incurred by us as a result of or in connection with the claim by a third party, including the costs of legal representation. The Supplier shall also be obliged to reimburse us for any expenses arising as a result of or in connection with a recall campaign carried out by us. As far as possible and reasonable, we shall consult with the Supplier regarding the content and scope of the recall campaign to be carried out, inform the Supplier and give them the opportunity to submit their comments. Other statutory claims shall remain unaffected.
- (3) Paragraph 2 above shall apply mutatis mutandis to the extent that we are entitled to claims against the Supplier pursuant to Sections 478 and 479 German Civil Code (BGB). In this context, the Supplier hereby assigns to us in advance any rights of recourse to which it is entitled against their sub-suppliers pursuant to Sections 478, 479 BGB, in order to secure the rights of recourse to which we are entitled. We shall accept the assignment.
- (4) In accordance with the statutory provisions, we shall be liable for damages arising from injury to life, body or health, in the event of intent or gross negligence on our part, on the part of a legal representative or vicarious agent, as well as for damages which are covered by a guarantee or assurance given by us. In the event of slight negligence, we shall only be liable for compensation for a foreseeable damage typical for the contract and only insofar as we, a legal representative or vicarious agent have breached an obligation the proper fulfilment of which is essential for the performance of this contract and on the compliance with which the contractual partner could rely (cardinal obligation). Otherwise, liability shall be excluded to the extent permitted by law.
- (5) The Supplier undertakes to take out public liability insurance and extended product liability insurance at their own expense to cover third-party claims for damages (including property damage, personal injury and financial loss) arising from defective performance. These insurances must be maintained for the entire duration of the contractual relationship. The Supplier's insurance cover must fulfil the following requirements and be evidenced by a current insurance confirmation from the insurer:
  - a) Public liability insurance with protection against property damage, personal injury and financial loss with a minimum cover of EUR 10 million.
  - b) Extended product liability insurance with a minimum cover of EUR 5 million.
  - c) Product recall liability insurance with a minimum cover of EUR 5 million.

The same requirements shall also apply to the Supplier when commissioning subcontractors after our approval.

#### **Art. 12 Audits**

- (1) The Supplier shall enable us at reasonable intervals to verify the implementation of appropriate quality assurance measures at their premises, in particular by giving us access to all relevant documents. For this purpose, the Supplier shall grant us and/or the competent authorities access to their premises by prior arrangement and shall make a professionally qualified employee available free of charge to assist with such access. The documents provided shall be explained. Samples of the substances used shall be made available to us. The inspectors shall be obliged to maintain confidentiality towards third parties.
- (2) If two consecutive deliveries from the Supplier are not of faultless quality, the inspectors may carry out inspection activities during normal business hours, even without prior notice.
- (3) The Supplier may refuse access to confidential manufacturing processes and other trade secrets unless confidentiality is ensured.
- (4) The aforementioned rights shall also accrue to the inspectors vis-à-vis the Supplier's sub-suppliers. The Supplier is obliged to grant the aforementioned rights mutatis mutandis in their contracts with their sub-suppliers.

#### **Art. 13 Ownership, provision, mixing**

- (1) If we supply and/or provide substances and materials, these shall remain our property. Processing or remodelling by the Supplier shall be carried out on our behalf. If our substances and materials are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our items to the other processed items at the time of processing.
- (2) If the item (substances/materials) provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved item to the other mixed items at the time of mixing. If the mixing takes place in such a way that the Supplier's item is to be regarded as the main item, it shall be deemed to have been agreed that the Supplier transfers ownership to us on a pro rata basis; the Supplier shall keep the sole or co-ownership on our behalf free of charge.
- (3) To the extent that the security rights to which we are entitled pursuant to the foregoing paragraphs 1 and/or 2 exceed the purchase price of all our reserved goods not yet paid for by more than 10%, we shall be obliged, at the Supplier's request, to release the security rights at our discretion.
- (4) If the Supplier takes over items in our works, the responsibility for damage and loss shall pass to the Supplier, irrespective of whether the items are provided by us free of charge or delivered against payment. The Supplier shall, at their own expense, insure any tools, machines, parts of machines or other equipment provided by us against fire, water and theft and shall provide us with evidence of such insurance within a reasonable period of time upon request. The Supplier hereby assigns to us all claims for compensation under such insurance policies; we accept this assignment. If the deadline expires without result, we shall be entitled to take out appropriate insurance cover at the Supplier's expense.

- (5) We reserve the right of ownership or copyright to orders and commissions placed by us and to drawings, illustrations, calculations, descriptions and other documents made available to the Supplier. The Supplier may not make them available to third parties or use or reproduce them themselves or through third parties without our express consent; the Supplier must return these documents in full to us on request if they are no longer required by them in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. In this case, any copies made by the Supplier shall be destroyed, except for storage in accordance with statutory documentation obligations and storage of data for back-up purposes as part of normal data back-up.
- (6) The Supplier's retention of title shall only apply to the extent that it relates to our payment obligation for the relevant products to which the Supplier retains title. In particular, extended or prolonged retentions of title by the Supplier are not permitted.

#### **Art. 14 Property rights and secrecy**

- (1) The Supplier shall be obliged to keep secret all written or verbal information received in connection with the placing of the order. The obligation to maintain secrecy shall apply in particular to data, drawings, specifications, calculations and production instructions. Such information may only be disclosed to third parties with our express written consent. The obligation to maintain secrecy shall also apply after the fulfilment or failure of this contract; it shall expire if and insofar as the information contained in the documents provided or the information given orally has become generally known. Third parties used by the Supplier to fulfil the obligations resulting from this contract shall be bound *mutatis mutandis*. In the event of a breach of these obligations, we may demand the immediate return of the documents provided and claim damages.
- (2) The Supplier warrants that no rights of third parties are infringed in connection with their delivery. If a claim is made against us by a third party in this respect, the Supplier shall be obliged to indemnify us immediately on first demand against all claims arising therefrom and to defend us against such claims. The obligation to indemnify shall also apply to all expenses necessarily incurred by us as a result of or in connection with the claim by a third party, including the costs of legal representation. The Supplier shall insure themselves against these risks to a sufficient extent as is customary in the trade.

#### **Art. 15 Final provisions**

- (1) The law of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods and legal norms referring to another legal system shall not apply. If copies of these GTC Purchase have been made in languages other than German, only the German version shall be binding in the relationship between us and the Supplier.
- (2) Subsidiary agreements, amendments or supplements must be made in writing to be valid, as must any waiver of the written form requirement. The written form requirement within the meaning of these GTC Purchase shall also be satisfied by e-mail and fax.

- (3) The place of performance shall be the registered office of the purchasing company. However, we shall also be entitled to sue the Supplier at the court having jurisdiction over their registered office or the registered office of one of their branches, unless otherwise agreed. The place of jurisdiction for disputes arising as a result of or in connection with the existing contractual relationship shall be Rheda-Wiedenbrück, provided that the contractual partner is a merchant, a legal entity under public law or a special fund under public law.
- (4) Should any provision of these GTC Purchase be or become invalid, this shall not affect the validity of the remaining provisions.