



## GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

### 1. SUBJECT

The present general terms and conditions apply to all purchase orders (the **Purchase Orders**) made by any entity part of the *Groep Tiense Suikerraffinaderij NV (TS)* to any supplier (the **Supplier**) for the purchase of specific goods and/or services, and to all agreements for the purchase and delivery of goods and/or services arising out of these Purchase Orders, without prejudice to the specific provisions of the individual TS Purchase Order. Parties may exclude the application of the present general terms and conditions by an agreement in writing, signed by TS.

### 2. PURCHASE ORDER AND ACCEPTANCE

- 2.1 All Purchase Orders from TS to the Supplier shall be in writing, and specify the present general terms and conditions and the appropriate reference number. Every Purchase Order shall be confirmed in writing by TS, and be signed by at least two TS executives.
- 2.2 If the Supplier is not able to present the TS Purchase Order, he shall not be entitled to invoke any contract with TS.
- 2.3 Unless the Supplier indicated otherwise by written notice to TS within five working days upon receipt of the Purchase Order, the Supplier shall be considered to have accepted the Purchase Order without any reservations, subject to the present general terms and conditions and any additional provisions that may be specified in the individual Purchase Order.
- 2.4 A contract for the purchase and delivery of goods and/or services (the **Contract**) shall be formed upon the acceptance by the Supplier as specified in Article 2.3. The formation of the Contract shall constitute the acceptance by the Supplier, without any reservations, of the present general terms and conditions, and a waiver by the Supplier of his own general and specific terms and conditions, even if the latter provide that they apply in priority to or notwithstanding any other agreement.

### 3. TS SPECIFICATIONS

- 3.1 The Supplier has at his disposal the specifications for the relevant goods and/or services (the **TS Specifications**). If the Supplier does not have the appropriate TS Specifications at his disposal, it shall be the sole responsibility of the Supplier to request them from TS.
- 3.2 The relevant goods and/or services shall have the quantity, amount, quality and description as determined by the TS Specifications.
- 3.3 The Supplier shall strictly comply with all procedures for quality control (such as, but not limited to, the quality requirements with respect to the packaging of goods), which are an integral part of the Purchase Order.



#### 4. DELIVERY

4.1 The Supplier shall be bound by the delivery date as specified on the Purchase Order (the **Delivery Date**), unless the Purchase Order provides otherwise. The Delivery Date constitutes an essential element of the Contract.

The goods and/or services shall be delivered on the Delivery Date during office hours. TS shall not accept any deliveries before the Delivery Date, unless an agreement in writing and signed by TS provides otherwise.

4.2 If the Supplier has reasons to believe that he will not be able to deliver the goods and/or services on the Delivery Date, he shall immediately notify TS in writing and indicate the earliest possible date of delivery.

Unless parties agree to a new date of delivery, the Supplier's failure to deliver the goods and/or services on the Delivery Date shall give TS, without prejudice to any other legal remedies it may have under the present general terms and conditions or otherwise, the right to:

- require the Supplier to take all measures that TS deems necessary, and, if the Supplier fails to take these measures, immediately, without prior court authorisation and without granting any notice period or paying any compensation, terminate the Contract by simple notice to the Supplier, and purchase the relevant goods and/or services elsewhere at the expense of the Supplier. In any event, the Supplier shall indemnify TS for any liability TS may incur following the non- or late delivery of the goods and/or services, as well as for any damage, whatever its nature, that TS may have suffered as a result of the non- or late delivery of the goods and/or services; or
- reduce the price by two [2] percent of the price for every week of delay that has started since the Delivery Date, with a maximum of fifteen [15] percent, in order to compensate for any damage that TS suffered because of the delay.

4.3 The goods and/or services shall be delivered at the delivery address specified in the Purchase Order.

4.4 TS shall at all times have the right to refuse any partial deliveries.

4.5 The Supplier shall attach a dispatch note to every delivery of goods and/or services, which specifies the following information:

- the reference number of the Purchase Order;
- the TS-code of the relevant item (as well as the code number of the Supplier);
- the number, nature and brand of each package;
- the content of each package (gross and net weight and quantity); and



- if applicable, the Intrastat declaration.

4.6 Any goods and/or services for which no delivery note has been signed by a duly authorised TS agent shall be considered as not delivered.

## **5. ACCEPTANCE BY TS**

5.1 TS shall inspect the goods and/or services upon their delivery, in order to verify their conformity with the Purchase Order and the relevant TS Specifications. If TS believes that the delivered goods and/or services do not comply with the Purchase Order or the TS Specifications, TS shall, within thirty [30] calendar days after delivery, notify the Supplier in writing that he does not accept delivery of all or part of the goods and/or services.

If TS did not accept delivery of all or part of the goods and/or services, the Supplier shall, at his own expense and within a reasonable time as determined by TS, replace or repair the relevant goods and/or services. If the Supplier fails to replace or repair these goods and/or services within the reasonable time determined by TS, TS shall have the right, without prejudice to any other legal remedies it may have under the present general terms and conditions or otherwise, to either (i) immediately, without prior court authorisation and without granting any notice period or paying any compensation, terminate the Contract by simple notice to the Supplier, and obtain reimbursement of all sums paid for the delivered goods and/or services, or (ii) repair the relevant defects itself (or have them repaired by a third party) at the expense of the Supplier.

If TS did not send written notice within the aforementioned period of thirty [30] calendar days, delivery of the relevant goods and/or services shall be considered as accepted. The signing of a delivery note shall not be considered as acceptance of delivery. The acceptance of delivery shall not constitute a waiver of any defects in relation to the relevant goods and/or services.

5.2 TS shall have the right to refuse the entire delivery if a reasonable sample of the goods and/or services delivered does not conform to the Purchase Order and/or to the applicable TS Specifications.

## **6. TRANSFER OF OWNERSHIP AND RISK**

The ownership to and risk of the goods and/or services shall only transfer to TS at the time of acceptance of delivery of the respective goods and/or services.

## **7. PRICE AND INVOICING**

7.1 The price of the goods and/or services shall be determined by the relevant Purchase Order. This price shall be determined on the basis of DDP (delivery address specified by the Purchase Order) (Incoterms 2010), be expressed in euros, and include any VAT owed.

7.2 The price of the goods and/or services as specified by the Purchase Order shall be final, and may only be changed by written agreement between TS and the Supplier. In any event, the price as specified by the Purchase Order shall not be increased.



## **8. TERMS OF PAYMENT**

- 8.1 Unless the Purchase Order specifies otherwise, the Supplier shall invoice any goods and/or services within the course of the calendar month following delivery.
- 8.2 The Supplier shall send each invoice in duplicate to TS at the invoice address specified by the Purchase Order, or, if the Purchase Order does not specify any such address, at the delivery address.

Every invoice shall specify the reference number of the relevant Purchase Order, the delivery address, and the individual price for each good or service that was delivered. In addition, every invoice relating to the delivery of services shall be accompanied by a copy of the performance sheet signed by TS.

If the Supplier does not comply with the provisions in Articles 8.1 and 8.2, TS shall not process the invoice but automatically return it to the Supplier. In this event, the term of payment specified in Article 8.3 will only start running upon receipt by TS at the correct address of a new and duly completed invoice.

- 8.3 Every invoice shall be paid within sixty [60] calendar days from the end of the month in which TS received it.
- 8.4 TS shall have the right to reduce any payment to the Supplier by setting it off against any amounts owed by the Supplier to TS.

## **9. WARRANTIES**

- 9.1 The Supplier shall warrant that the goods and/or services:
- are of an impeccable quality and without defects or non-conformities;
  - in every respect comply with the Contract, in particular with the TS Specifications;
  - are suitable for the use intended by TS;
  - comply, in their technical aspects as well as for the purposes of occupational medicine, with all current technical standards and generally recognised safety regulations issued by authorities and trade associations; and
  - comply with all applicable local and European regulations.
- 9.2 If the goods and/or services do not comply with the warranties as specified in Article 9.1, TS shall be entitled, at any time within a period of 24 months from their acceptance, to require the Supplier to immediately and at his own expense repair or bring in conformity the relevant goods and/or services. If the Supplier does not comply with this demand within a reasonable time, TS shall determine a final deadline. If the Supplier does not satisfactorily complete all repairs and remedy all non-conformities before that final deadline, TS (or any third party at TS' request) may repair the defects and remedy the non-conformities at the risk and the expense of the Supplier.



- 9.3 If defective or non-complying goods and/or services need to be repaired or be brought into compliance, the warranty period of 24 months specified in Article 9.2 shall only start running from the date of full repair or compliance.
- 9.4 The limitation of the warranty to a period of 24 months from the acceptance of the goods and/or services does not apply to hidden defects.
- 9.5 The legal remedies and warranties specified by the present general terms and conditions are supplemented by all remedies and warranties provided by law.

## **10. SUBCONTRACTING AND ASSIGNMENT**

- 10.1 The Supplier shall not entirely or partially delegate the performance of the Contract to any subcontractor without the prior written consent of TS. The eventual consent of TS shall not give rise to any liability of TS, and shall not affect the Supplier's own liability for the subcontractors.
- 10.2 The Supplier shall not assign any rights or obligations under the Contract, neither entirely nor partially, to any third party without the prior written consent of TS.

## **11. LIABILITY**

- 11.1 The Supplier shall fully indemnify TS, its agents, employees, executives, subsidiaries, branches and assignees for any liability they may incur in relation to the delivered goods and/or services, and fully compensate them for any damage, irrespective of its nature, TS may suffer as a result of the delivery of the goods and/or services.
- 11.2 TS shall only be liable for damage caused under or in relation to the Contract if the Supplier establishes that TS has intentionally or with gross negligence caused such damage.

TS shall not be held liable for any damage that was unforeseeable, nor for indirect or consequential damages (such as, but not limited to, loss of income, loss of an opportunity, complaints or claims of third parties), irrespective of the exact cause of the damage.

In any event the total liability of TS shall not exceed the price of the delivered goods and/or services as specified by the Purchase Order.

## **12. INSURANCE**

The Supplier shall, at his own expense, maintain for the duration of the entire Contract and twelve [12] months thereafter all types of insurance policies that are necessary for the performance of its obligations under the Contract. The Supplier shall make available the certificates of insurance coverage at the yearly request of TS.

## **13. EARLY TERMINATION**

- 13.1 In the event of bankruptcy of either party, the Contract shall automatically and with immediate effect be terminated.



13.2 Each party shall have the right, without court intervention and without prior notice or compensation to the other party, to terminate the Contract with immediate effect in the following circumstances:

- if the other party ceases its activities or transfers all or a major part of its assets;
- if the other party acknowledges that it will be unable to pay its debts, if it goes into liquidation, or if any protests or executive measures have been registered against it which could endanger its survival;
- if the financial situation of the other party has considerably deteriorated, significantly impeding its capacity to fulfil its obligations under the Contract, and if the other party is unable to offer adequate financial assurance at the registered request of the terminating party; or
- if the other party violates one or more provisions of the Contract and fails to remedy such violation within fifteen [15] calendar days after the date of dispatch of a registered notice of default by the terminating party.

13.3 In the event of early termination by TS in any of the circumstances specified above, the Supplier shall compensate TS for any loss suffered, including consequential damages (such as, but not limited to, production loss and loss of profit).

#### 14. CONFIDENTIALITY

14.1 The Supplier hereby declares to keep confidential all information obtained from TS in the context of the Contract (the **Information**), and not to disclose it to or use it for any third parties. This Information includes any designs, drawings, TS Specifications, information of a technical, technological and informative nature as well as any other know-how that the Supplier acquired during the performance of the Contract with TS.

The Supplier shall only use and apply this Information to the benefit of TS and for the performance of the Contract.

The Supplier shall clearly instruct its personnel, subcontractors and own suppliers on the duty of confidentiality described in this article, and shall ensure that these provisions are strictly complied with.

14.2 The Supplier shall not use any information relating to an existing or planned contractual cooperation with TS, nor any photographs, pictures or other material for advertising or publication, without the prior written consent of TS.

14.3 All documents specified in this article shall be returned to TS upon termination of the Contract.

14.4 If required, the Supplier may, in consultation with TS, supply confidential Information to its own subcontractors. In this event, the duty of confidentiality specified in this article shall equally apply to these subcontractors, and the Supplier shall be responsible for their compliance therewith.



## **15. INTELLECTUAL PROPERTY RIGHTS**

- 15.1 TS retains all rights to any drawings, samples, recipes and other documents, as well as to all means and resources that TS made available to the Supplier for the performance of its obligations under the Contract.

The Supplier shall only use these documents and resources for their intended use, and shall at any time return them at the request of TS.

- 15.2 TS shall indemnify the Supplier for any third party complaint arising from a violation of patents, drawings, trademarks or any other intellectual property rights during the performance of the Contract, for which the Supplier made use of a TS Specification, drawing or specific piece of equipment made available by TS.

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## **16. FORCE MAJEURE**

- 16.1 If either party is unable to fully or partially perform its obligations under the Contract because of inevitable and insurmountable circumstances that are beyond its control, that party shall be entitled to suspend its own performance without being liable for any damages towards the other party, until this circumstance has ceased to exist.

- 16.2 The suspension of a party's performance in accordance with Article 16.1 shall not exceed a period of three [3] months. At the end of this period of three months, or immediately if the circumstance of force majeure is final and irreversible, the other party may, with immediate effect and without paying any compensation, unilaterally and without prior court intervention terminate the Contract by registered letter to the party invoking the circumstance of force majeure.

- 16.3 The party invoking force majeure shall notify the other party within twenty-four [24] hours by telephone and by e-mail or facsimile of the exact circumstance of force majeure, its start and its expected end. That party shall also take all measures necessary to mitigate the consequences resulting for the other party, such as providing a minimum workforce in case of a strike.

## **17. GENERAL PROVISIONS**

- 17.1 If any provision of the Contract is or becomes invalid, void or unenforceable, all other provisions shall remain valid and enforceable. In the event that a provision is found to be invalid or unenforceable, TS and the Supplier shall negotiate in good faith to agree the terms of a valid and enforceable substitute provision, the economic impact of which best corresponds with the provision it substitutes.

- 17.2 The failure to exercise or delay in exercising a specific provision or right under the Contract shall not act as a waiver of rights.



## **18. NOTIFICATIONS**

- 18.1 Any notice to be given under the Contract shall be delivered by registered letter sent to the address of TS or the Supplier, unless explicitly specified otherwise in the present general terms and conditions or in any specific terms and conditions agreed to by the parties.
- 18.2 Any notice to TS shall specify the reference number of the relevant TS Purchase Order. Any notice that lacks the appropriate reference number shall be deemed never to be received by TS.

## **19. APPLICABLE LAW AND JURISDICTION**

- 19.1 The Contract and all non-contractual obligations arising under it are governed by the laws of the Kingdom of Belgium, with exclusion of the provisions of the United Nations Conventions on Contracts for the International Sale of Goods (Vienna, 11 April 1980) as implemented by the Belgian Act of 4 September 1996.
- 19.2 The courts of Leuven have exclusive jurisdiction in respect of any dispute in connection with the formation, performance and construction of the Contract.