

**Technical Terms and Conditions of Purchase of Kräuter Mix GmbH, 97355 Abtswind, Germany**  
**As of January 2023**

**I GENERAL - SCOPE OF APPLICATION**

(1) Our Technical Terms and Conditions of Purchase shall apply to all business relations with our business partners and suppliers (Contractors). The Technical Terms and Conditions of Purchase shall only apply if the Contractor is an entrepreneur (Section 14 German Civil Code / BGB), a legal entity under public law or a special fund under public law.

(2) Our Technical Terms and Conditions of Purchase shall apply exclusively; we do not accept any conflicting or deviating terms and conditions of the Contractor unless we have expressly agreed to their applicability in writing and in advance. Our Technical Terms and Conditions of Purchase shall also apply if we accept the Contractor's delivery without reservation in the knowledge that the Contractor's terms and conditions conflict with or deviate from our Technical Terms and Conditions of Purchase.

(3) Our Technical Terms and Conditions of Purchase shall apply in particular to all orders for goods, work and services (in particular packaging, machines, auxiliary and operating materials, etc.) and the processing of these orders.

(4) In all cases, individual agreements entered into with the Contractor on a case-by-case basis (including side agreements, supplements and amendments) shall take precedence over these Technical Terms and Conditions of Purchase. Subject to proof to the contrary, a written agreement or our written confirmation shall be authoritative for the content of such agreements.

**II ORDERS**

(1) The Contractor undertakes to confirm our orders in writing within a period of 10 working days. In the event of foregoing contract negotiations, the legal principles governing commercial letters of confirmation shall remain unaffected.

**III CONFIDENTIALITY**

(1) The Contractor undertakes to keep all documents and knowledge, illustrations and drawings (Information) obtained from us strictly confidential. This information may only be disclosed to or used by third parties with our prior written consent.

(2) The obligation to maintain secrecy shall continue to apply after the performance of the contract. It shall expire as soon as and to the extent that the expertise included in the Information has become a matter of common knowledge.

(3) The confidentiality obligation shall not apply to such Information that was demonstrably already known to the Contractor prior to its disclosure within the scope of a contractual relationship with us, was demonstrably independently developed or otherwise lawfully obtained

by the Contractor or is generally known or becomes generally known without a breach of this contract.

(4) The Contractor shall be obligated to ensure in an appropriate manner that the employees, freelancers and subcontractors entrusted with the performance of the contract in compliance with the applicable regulations observe the aforementioned confidentiality obligation. At our request, the Contractor shall provide written evidence of the measures taken in this respect.

**IV ACCEPTANCE INSPECTIONS**

(1) Unless otherwise agreed, the contractually agreed acceptance inspections shall be carried out at the place of manufacture during normal working hours. If there are no technical requirements set out in the contract, the inspections shall be carried out in accordance with the general practice as applicable for the relevant industry in the country of manufacture.

(2) The Contractor must notify us of such acceptance inspections in due time, so that we can arrange for a representative to take part in the inspections.

(3) If acceptance inspection discloses that the goods or the work (Delivery Item) are in breach of contract, the Contractor shall immediately remedy any defect in order to restore the Delivery Item to its contractually agreed condition.

(4) The Contractor shall bear all costs incurring for the acceptance inspections carried out at the acceptance location.

**V DELIVERY AND TRANSFER OF RISK**

(1) The goods and work shall be delivered to the destination specified by us. Services and work performances shall be provided at the place of destination specified by us.

(2) Unless otherwise agreed, delivery shall be made carriage paid.

(3) In the case of carriage forward deliveries, we shall only bear the carriage costs if this has been agreed in writing and in advance.

(4) If their nature requires packaging during transport, the delivered goods shall be delivered packaged. The packaging must be safe for transport and comply with the transport regulations applicable to the selected mode of transport and any packaging regulations specified in our order.

(5) If the consignment arrives at the destination in damaged packaging or is delivered to us in damaged packaging, we shall be entitled to reject the consignment without checking its contents. If the inspection cannot be carried out on the same day, we are entitled to reject deliveries on the next working day. The Contractor shall

bear the costs incurring for any returns.

5.1 Acceptance of the delivered goods shall always be subject to the assertion of all rights, in particular rights based on defective or delayed delivery. If inspection/acceptance cannot take place on the same day, this shall be postponed to the next working day.

5.2 If acceptance is prevented or considerably impeded by circumstances beyond our control, we shall be entitled to postpone acceptance for the duration of such circumstances. Circumstances of this kind shall in particular include all interventions by public authorities affecting our business operations, the processing, sale or other use of the goods, such as import and export restrictions, natural events such as fire and water damage, shortages of raw materials or means of transport, operational disruptions such as the interruption or restriction of the energy supply as well as all other circumstances which lead to a discontinuation or considerable restriction of our production. If these circumstances prevail for longer than four weeks, the Contractor is entitled to withdraw from the contract if we continue to refuse acceptance of the goods. Further claims are hereby excluded.

(6) If goods are delivered on exchangeable pallets, it must be ensured that only undamaged, exchangeable Euro pallets (EPAL standard) are used. If damaged pallets are found during processing of the delivered goods, we shall be entitled to charge them at replacement value.

(7) All orders must be accompanied by a delivery note/time sheet/repair report stating the order numbers in our order as well as the relevant contact person and, if available, our commission or project number.

(8) If this is stipulated in the order, all deliveries shall be accompanied by a certificate of conformity

## **VI DELIVERY PERIOD / DELAYS**

(1) The delivery time stated in the order is binding.

(2) If the Contractor can foresee that it will not be possible to meet the agreed delivery date/delivery period/performance period or the automatically controlled supply of goods, the Contractor must notify us immediately and in writing, state the reasons for this and, if possible, state the expected delivery date. If the Contractor fails to provide such notification, we shall be entitled to demand compensation for all further costs incurred by us due to the fact that we have not received such notification.

(3) If the Contractor is in default, we may - in addition to further statutory claims - demand lump-sum compensation for our default damages in the amount of 0.1% of the order value (net) per working day, but in total not more than 5% of the order value (net). We reserve

the right to prove that higher damages have been incurred. The Contractor reserves the right to provide proof that no damage at all or only significantly less damage has been incurred.

(4) The Contractor shall be liable for consequential damages such as production standstill, loss of profit, loss of use, loss of contracts or any other consequential damages.

## **VII TERMS OF PAYMENT/PRICES**

(1) The price stated in our order is a binding fixed price which includes all the services and costs stated, in particular all costs which may be incurred through the services of third parties (e.g. subcontractors). The statutory value added tax is not included in the price.

(2) In the absence of any other agreement or more favourable conditions on the part of the Contractor, payments shall be made within 14 days less 3% discount or else within 30 days.

(3) Payment and discount periods commence from receipt of the invoice, however not before receipt of the goods or, where services are concerned, not before their acceptance and, if documentation, inspection certificates (e.g. factory certifications) or similar documents are part of the scope of services, not before such documentation has been provided to us in accordance with the contract. We reserve the right to retain 10% of the total order amount until the service or delivery has been completely fulfilled.

## **VIII RESERVATION OF TITLE**

(1) The transfer of ownership of the goods to us shall be unconditional and regardless of the payment of the price. However, if in individual cases we accept an offer of the Contractor to transfer ownership conditional on payment of the purchase price, the Contractor's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. We shall remain authorised to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively simple reservation of title prolonged to the resale shall apply). At any rate, all other forms of retention of title are therefore excluded, in particular the extended retention of title, the transferred retention of title and the retention of title prolonged to further processing.

## **IX LIABILITY FOR DEFECTS**

(1) Unless otherwise agreed, the warranty obligation shall be governed by the applicable statutory provisions.

(2) If proper subsequent performance has not been carried out within a set reasonable period of time, we shall remain entitled to the unabridged statutory claims

for defects. In any event, we shall be entitled to demand, at our own discretion, that the Contractor either rectifies the defect or delivers a new item. Our right to receive damage compensation, i.e. in particular compensation in lieu of the contractually agreed goods or service is expressly reserved. Insofar as the Contractor only delivers partially defective goods or services, we shall be entitled to withdraw from the contract or to demand compensation for damages instead of performance either solely with regard to this part or with regard to the entire contract.

After the Contractor has made an unsuccessful attempt at subsequent performance, we shall be entitled to remedy the defect ourselves at the Contractor's expense or to have the defect remedied by a third party or to procure the required goods or services from a third party in the event of imminent danger or special urgency.

**(3)** At our own discretion, we shall provide the Contractor with the defective goods for the purpose of rectification, either at the place where they are located when the defect is discovered or at the place of their destination. The Contractor is obligated to collect the goods from there if it is not possible to rectify the defect on site and to then return the goods to the same location.

**(4)** The costs of subsequent performance shall be borne by the Contractor. The warranty period shall be suspended upon commencement of the notice of defects.

**(5)** The notice of defects must be submitted to the Contractor in due time, starting from the completed goods receipt process or, in the case of hidden defects, from the time of discovery.

**(6)** The Contractor shall be liable for new deliveries or rectification work to the same extent as for the original Delivery Item; the limitation period for new deliveries shall start anew upon delivery.

**(7)** Replacement and consequential costs incurred by us and third parties due to defective deliveries shall be borne by the respective Contractor, even if the goods are located at a place other than the agreed place of performance.

## **X LIMITATION**

**(1)** The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions unless otherwise stipulated below.

**(2)** Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims for defects shall be 3 years from the transfer of risk. Where an acceptance procedure has been agreed on, the limitation period shall commence upon acceptance. The three-year limitation period shall apply mutatis mutandis to claims arising from defects of title, whereby the

statutory limitation period for third-party claims in rem for surrender of goods (Section 438 (1) No. 1 BGB) shall remain unaffected of this; in addition, claims arising from defects of title shall not become time-barred as long as the third party can still assert the right against us - in particular in the absence of limitation.

**(3)** The limitation periods under sales law including the above extension shall apply - to the statutory extent - to all contractual claims for defects. Insofar as we are also entitled to extra-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 BGB) shall apply, unless the application of the limitation periods under sales law results in a longer limitation period in individual cases.

## **XI NEGOTIATION MINUTES**

**(1)** Any deviating or supplementary provisions to our Technical Terms and Conditions of Purchase shall be recorded in writing in our so-called negotiation minutes and these shall be confirmed by the Contractor and the contractee.

## **XII SEVERABILITY CLAUSE**

**(1)** In case of doubt, the remaining provisions of the Technical Terms and Conditions of Purchase shall stay in force even if individual or several provisions thereunder should be legally invalid or unenforceable. Ineffective or unenforceable provisions shall be replaced by provisions which come as close as possible to the intended economic aim.

## **XIII CHOICE OF LAW, PLACE OF JURISDICTION**

**(1)** German law shall apply to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

**(2)** If the Contractor is a merchant as defined in the German Commercial Code, a legal entity under public law or a special fund under public law, the sole - including international - place of jurisdiction for all disputes arising from the contractual relationship shall be that of our registered office. The same shall apply if the Contractor is an entrepreneur as defined in Section 14 BGB. However, in all cases, we shall also be entitled to bring actions at the place of performance of the delivery obligation as set out in these Terms and Conditions of Purchase or a prior individual agreement or at the Contractor's general place of jurisdiction. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected of this.