



General Purchase Terms of Zott SE & Co. Produktions KG, Dr.-Steichele-Straße 4, 86690 Mertingen

As per April 2019

I. General

Our orders will be placed exclusively on the basis of the present Purchase Terms. Additional or different terms by the Supplier shall not be recognized. The Purchase Terms shall apply even where we accept the delivery unconditionally in spite of being aware of terms by the Supplier that are contrary to or deviate from our terms.

II. Order

(1) Orders will only be binding if they are placed in writing (e.g. fax, e-mail, letter). Acceptance of our order must be declared in writing within 1 work day; Saturdays are defined as work days in the present terms.

(2) Where the Seller deviates from our order in his order confirmation he must show this deviation clearly. The principles of business confirmation letters will not apply.

(3) We reserve the ownership rights and copyrights to all documents and information provided to the suppliers, in particular illustrations, drawings, product specifications. These documents and information may only be used for the purpose of processing our order. The Supplier will be obliged to return the documents and information to us at his own initiative after termination of the business relationship. There will be no right of retention on any ground.

(4) The Supplier will be obliged to observe strict confidentiality regarding the information received in connection with the order, in particular documents and information in accordance with para. 3 and to take and instruct all measures to ensure that this duty is complied with by its affiliated companies, bodies, representatives, consultants, executives and other employees. The above duty of confidentiality shall not apply where the information was already known to the supplier prior to disclosure or this information was verifiably accessible to the public during the term of the contract or where notification is required on the basis of statutory, official or court orders.

(5) In the case of international orders the Seller must provide all documents necessary for customs or for obtaining discounts or as proof of other business-related facts together with the shipment. The Supplier will be obliged to report the information necessary for the "Intrastat-registration" in good time.

(6) If demanded by legal requirements and / or specific applications require information about preferential origin status, the Supplier shall be obliged at first call by us to issue and hand over a long-term supplier's declaration to us.

III. Scope of performance

(1) The Supplier guarantees that all goods and services comply with the relevant legal provisions of the Federal Republic of Germany and the European Union, in particular the Foodstuff and Animal Feed Code (LFGB) and Minimum Wage Law (MiLoG). Where in the case of processing or further use the goods delivered are subject to legal restrictions and/or labelling duties the Supplier will be obliged to inform us of this.

(2) The Supplier shall not have the right to assign the order to third parties or subcontractors without our prior consent. Where the Supplier uses third parties he must subject them to the order and to consider the terms of the Minimum Wage Law (MiLoG) and the present terms in the same way the Supplier is. The Supplier will conclude contracts with third parties in his own name and for his own account.

(3) The Supplier shall not have the right to make partial deliveries or render partial performance without our express consent. Where the value of the goods is determined according to weight the net weight of the goods is to be determined.

(4) The Supplier will be obliged to inform himself regarding the Code of Conduct of the BSCI (Business Social Compliance Initiative) (BSCI Code of Conduct/ BSCI-Verhaltenskodex) and to comply with this Code of Conduct in its respective valid version in the production of the goods being delivered and/or rendering of the service.

IV. Delivery period

(1) The dates specified on the order are binding. Timeliness of the delivery shall be determined on the basis of the receipt of the goods during business hours at the delivery address specified by us.

(2) The Supplier shall be obliged to immediately report in writing any anticipated delays. The report will include the cause and anticipated duration of the delay. The onset of the delay will not be prevented by this notification.

(3) In the case of delay the Supplier shall be obliged to pay a contractual penalty of 1% of the order value per each new week, but a maximum of 5% of the order value. In addition, we reserve the right to assert further claims on grounds of delay.



V. Prices/Payment terms

- (1) Unless otherwise agreed on in writing the purchase price will be due for payment within 30 days with 3% discount or within 60 days net. The deadline will commence upon receipt of the contractual good /services and proper invoice. We will also have the right to a discount where we duly make a set off or withhold payments due to defects. Payment will be effected via central regulation through the service company Eurodelkreder.
- (2) The price specified on the order is a fixed price and will be valid for delivery ex the site specified in the delivery address on the order. It includes packaging, transport and insurance. Value added tax will be due additionally. We do not recognize any price escalation clauses by the Supplier.
- (3) Price increases must be sent to us in writing 4 weeks in advance before they are to take effect. Before the new prices take effect, we must give a written confirmation.
- (4) We are entitled to set off and rights of retention to the extent permitted by law.
- (5) The Supplier is not entitled to impose surcharges for minor/small volume orders.

VI. Passing of Risk/Packaging/Retention of Title

- (1) The place of performance is the delivery address specified by us. Delivery will be at the Supplier's risk.
- (2) Unless otherwise agreed, the Supplier must deliver the goods in accordance with our pallet regulations.
- (3) Upon request by Zott the Supplier will be obliged to take back and properly dispose of the transport packaging at his own expense.
- (4) Retention of title by the Supplier is excluded.

VII. Material Defects/Guarantee

- (1) Acceptance of the goods will in every case be subject to the proviso of the report of any defects. Acceptance may be denied where proper documents accompanying the goods are missing.
- (2) The report of overt defects will be deemed as timely where it is received by the Supplier within 5 work days, starting from the date of the receipt of the goods. The report of hidden defects, in particular prohibited residue in foodstuffs or other quality defects, which are detected in laboratory studies will be deemed as timely where it is received by the supplier within 5 work days starting from the date of detection. Saturdays are defined as work days in the present agreement.
- (3) In urgent cases of risk to operational safety or to avoid greater economic damage we will be entitled to rectify the defect ourselves or have it rectified by third parties and to demand compensation of the necessary costs from the Supplier.
- (4) In other respects, we are entitled to the statutory guarantee rights without restrictions. In particular, we do not recognize restrictions or exemption from liability by the Supplier. Departing from § 440 BGB, make-up performance will be deemed to have failed where the first make-up performance attempt was unsuccessful. A replacement delivery will be regarded as having failed where the first delivery does not comply with the contractual terms.

VIII. Product Liability

- (1) In the case of a defect of the product the Supplier will be obligated to indemnify us against third party claims upon our first request unless the cause is not within his area of control and organization and he is not personally liable toward third parties.
- (2) The Supplier guarantees that all goods and services are free from third party rights and is indemnifying us from these claims upon first request.
- (3) The exemption duty as set out in Sect. 1 and 2 covers all expenses incurred in connection with claims by third parties. Within the scope of liability for cases of damage as defined by Sect. 1 and 2 the Supplier will also be obliged to reimburse any expenses as set out in §§ 683, 670 BGB and as set out in §§ 830, 840, 426 BGB incurred in connection with recall campaigns carried out by us. We will inform the Supplier, to the extent that it is reasonable and possible, of the subject matter and scope of the recall measures and give him the opportunity to make a statement. Other statutory claims shall remain unaffected.
- (4) The Supplier is obliged to take out product liability insurance with coverage of € 10 million per case of personal injury/material damage and to maintain it to the full extent during the term of the supply contract. The Supplier must inform us immediately in writing of the withdrawal or restriction of the insurance coverage. In the case of the occurrence of an incident entitling insurance coverage the Supplier is already herewith assigning to us his claims against the insurance company. We herewith accept said assignment. Where we are entitled to further claims for damages, these shall remain unaffected.

IX. Miscellaneous

- (1) The assignment or pledging of claims by the Supplier which are not monetary claims will require written consent.
- (2) The invalidity of individual terms of the present Purchase Terms will not affect the validity of the remaining terms. The parties will be obliged in this case to replace the invalid term with a valid term which comes as close as possible to the economic purpose of the invalid term.

X. Choice of Law and Place of Jurisdiction

The laws of the Federal Republic of Germany shall apply. The place of jurisdiction is Augsburg. However, we have the right to appeal to the court at the Supplier's domicile.