

## General Terms and Conditions of Purchase of Artwork Wines GmbH

### § 1

#### General, Scope of Application, Conclusion of Contract

1. Our Terms and Conditions of Purchase apply exclusively; we do not accept any terms and conditions of the supplier that conflict with or deviate from our Terms and Conditions of Purchase unless we expressly agree to their validity in text form. This also applies to terms and conditions mentioned in order confirmations or other declarations and documents of the supplier.
2. These Terms and Conditions of Purchase apply to all our purchases in business transactions with entrepreneurs, i.e. natural or legal persons or partnerships with legal capacity who, when concluding a contract, act in the exercise of their commercial or independent professional activity (Section 14 (I) German Civil Code), as well as to legal persons under public law and special funds under public law. They do not apply to consumers within the meaning of § 13 German Civil Code.
3. All agreements amending or supplementing these Terms and Conditions of Purchase made between us and the Supplier shall be recorded in text form.
4. Our orders constitute an offer to purchase the goods or services in accordance with these Terms and Conditions of Purchase. The order shall be deemed to be accepted when the Supplier accepts it, this by (a) declaration of acceptance in text form or (b) by commencing with performance acts with regard to the order.

### § 2

#### Offer Documents

We reserve ownership, copyright and all other rights to illustrations, marks, drawings, pictures, calculations and documents which we make available to the supplier. They may not be made accessible to third parties without our express written consent. They are to be used exclusively for performance of Suppliers duties under a contract concluded with us. After completion of the order, they are to be returned to us; a right of retention is excluded in this respect. They must be kept secret from third parties.

### § 3

#### Prices, Terms of Payment, Return of Packaging

1. Agreed prices are fixed prices in case of doubt. Unless otherwise agreed in text form, the price includes delivery "ex works" (ICC Incoterms latest version) at the Supplier's agreed warehouse and, if applicable, packaging.
2. We shall not be obliged to return the packaging. At our request, the supplier is obliged to collect its packaging and transport materials from the agreed place of receipt at its own expense and, if necessary, to dispose of them.
3. Payments on due contractual payment claims shall be made within 30 calendar days.
4. The payment period shall commence upon receipt by us of an auditable invoice that complies with the German statutory requirements, but not before the day of handover of the goods.
5. § Section 286 (3) German Civil Code is waived.

### § 4

#### Assignment of Claims, Right of Retention, Set-off

1. The Supplier is prohibited from assigning his claims against us to third parties.
2. The Supplier shall not be entitled to any rights of retention insofar as they are based on counterclaims from other legal transactions with us.
3. The Supplier may only offset such claims (also from other legal relationships) that are undisputed or have been legally established.

### § 5

#### Certificates and Evidence, Provision, Transfer of Ownership

1. The Supplier undertakes to provide us on request with all documents and certificates whose existence is owed under the contract, in particular any organic certificates concerning the

supplier, the upstream suppliers in the supply chain and the delivered goods.

2. Materials provided by us remain our property and are to be stored, designated and managed separately free of charge. They may only be used for the purposes of the respective contract.
3. With the delivery of the ordered goods - whether to us or to a third party named by us - these become our property. In any case, we are authorized to resell the delivered goods.

### § 6

#### Delivery time, delay, transfer of risk

1. An agreed delivery time is binding.
2. Deliveries shall be made "ex works" at the Supplier's agreed warehouse.
3. The Supplier must inform us immediately in writing if circumstances occur or become apparent according to which the agreed delivery time cannot be met.
4. In the event of default on the part of the Supplier, we shall be entitled to the full statutory rights. In the event of default on the part of the Supplier, we shall be entitled to demand a contractual penalty of 0.5% of the value of the delayed delivery per day, but no more than 5% of the total order value. The Supplier shall be entitled to prove that the damage was less. The contractual penalty shall be credited against any further compensation claim based on the delay.

### § 7

#### Force Majeure

If the performance deadline is exceeded as a result of force majeure, we may demand delivery from the Supplier at the originally agreed conditions after the reason for the impediment has ceased to exist or we may withdraw from or terminate the contract in whole or in part after the expiry of a reasonable grace period. The same applies if the Supplier is unable to deliver for more than two months beyond the agreed date of performance. Any statutory claims for damages to which we are entitled shall remain unaffected.

### § 8

#### Examination and Notice of Defects, Period for Giving Notice of Defects, Transfer of Risk, Transfer of Ownership

1. Unless otherwise agreed in text form, deliveries shall be made at the expense and risk of the Supplier to the agreed collection/delivery address.
2. We are only obliged to carry out an incoming goods inspection with regard to obvious defects (externally recognizable damage, incorrect or under-deliveries). In particular, we are not obliged to examine delivered foodstuffs with regard to their ingredients and compliance with legal requirements and their marketability.
3. In deviation from §§ 377 German Commercial Code, we are entitled to inspect delivered goods within a period of 2 weeks after complete delivery of the goods in accordance with section 2 above and to give notice of any defects discovered. If there is a hidden defect in the goods, we are entitled to give notice of the defect within 2 weeks after discovery of the defect.  
If delivery is not made to us but directly to a third party named by us, the agreed inspection and complaint period shall commence upon delivery of the goods to the customer.
4. If we complain about deliveries of goods not being in accordance with the contract, the Supplier shall be obliged to immediately take back the delivery/partial delivery concerned, at its own expense. We shall be entitled to return the delivery/partial delivery to the Supplier at the Supplier's expense after the expiry of a reasonable deadline set by us. In such cases, the risk shall not pass to us until the reworked goods have been re-delivered to us.

### § 9

#### Specifications, Claims for Defects, Liability

1. Goods delivered to us by the Supplier and their packaging must comply with the legal requirements, laws and regulations applicable in Germany and the EU, in particular with regard to quality and

labelling and other requirements concerning ingredients and limit values. If the goods to be delivered to us are recognisably intended for delivery to countries outside the EU, the goods must comply with the relevant legal requirements there. Certificates, expert reports, analyses and product samples required to verify the corresponding quality shall be made available to us without delay and free of charge at our request.

2. We are entitled to the statutory claims for defects in full. The supplier shall remain solely responsible for its delivery and its defect-free performance even if we have signed, approved, stamped or marked with a "Seen" note or similar the specifications, recipes, plans, drawings, calculations and other execution documents submitted by the Supplier.
3. The limitation period for claims for defects shall be governed by the statutory provisions, subject, however, to the following proviso:
  - a) The limitation period shall be extended by the time during which the defective delivery/service cannot be used/ utilised due to the defect.
  - b) The limitation period shall be suspended by receipt of a notice of defects sent by us to the Supplier.
  - c) The limitation period of claims for defects shall also be suspended if the Supplier checks the existence of a defect itself.  
The suspension of the limitation period in the aforementioned sense shall only end when the supplier notifies us in writing that it acknowledges or rejects the notified defects. The resumption of the negotiation, examination of defects or measures taken to remedy defects shall again lead to the suspension of the limitation period.
4. The Supplier shall be liable in accordance with the statutory provisions.

#### **§ 10 Guarantees**

Without limiting the foregoing warranty and other rights to which we are entitled by law, the Supplier Guarantees that at the time of delivery of the Goods and for a period of at least 24 months thereafter ("Guarantee Period") the following requirements are met with respect to the Goods/Services:

1. The Supplier guarantees that delivered goods comply with the agreed specifications.
2. The Supplier guarantees that the delivered goods meet all material and formal requirements of any agreed organic or other standard.
3. The Supplier guarantees that delivered goods correspond to their agreed description and are free from defects in design, material, workmanship.
4. The Supplier guarantees that delivered goods are of contractual quality and that they are suitable for their intended use and purpose.
5. The Supplier guarantees that the delivered goods comply with all German and EU laws and regulations applicable to them and that these goods are marketable without restriction in Germany and the EU. If it is apparent to the Supplier that the goods are intended to be marketed outside the EU, the Supplier guarantees instead the marketability and compliance with all applicable laws and regulations in the country in which the goods are intended to be marketed.
6. The Supplier guarantees that delivered goods do not infringe any intellectual property rights and other rights of third parties.
7. The Supplier guarantees that foodstuffs and additives delivered to us do not contain or consist of any genetically modified organisms that must be declared in accordance with the applicable German and EU laws and regulations.
8. The Supplier guarantees that it has all necessary rights and licenses (including all licenses, permits, authorisations and consents required by contract or by law) to supply the goods in accordance with these General Terms and Conditions of Purchase or any other agreements between the parties and all applicable laws.

#### **§ 11**

##### **Product Liability, Indemnification, Liability Insurance Cover**

1. Insofar as the Supplier is responsible for product damage, it shall be obliged to indemnify us against claims for damages by third parties upon first request insofar as the cause lies within its sphere of control and organisation and/or it is liable itself in relation to third parties. Any further legal claims to which we are entitled shall remain unaffected.
2. If the Supplier is liable pursuant to Clause 1, it shall also be obliged to reimburse any expenses arising from or in connection with a recall action carried out by us. We shall inform the Supplier about the content and scope of the recall measures to be carried out - insofar as this is possible and reasonable - and give him the opportunity to comment.
3. The Supplier undertakes to maintain product liability insurance with a sum insured of at least EUR 4 million per personal injury/property damage. If we are entitled to further claims for damages, these shall remain unaffected.

#### **§ 12**

##### **Property Rights**

1. The Supplier warrants that it is the owner of all rights in connection with its delivery and that the rights of third parties (in particular copyrights, patent rights, design rights and trademark rights) are not infringed by the delivery.
2. If claims are asserted against us by a third party due to alleged infringements of property rights with regard to delivered goods, the Supplier shall be obliged to indemnify us against corresponding claims upon first written request. The Supplier's obligation to indemnify us shall include all damages and expenses incurred by us in connection with the claim by a third party, including reasonable legal defense costs.

#### **§ 13**

##### **Secrecy**

The Supplier is obliged to keep all illustrations, drawings, calculations and other documents or information received, including those relating to agreed prices, product specifications, recipes, delivery relationships, strictly confidential. They may only be disclosed to third parties for the purpose of fulfilling the contracts concluded with us or with our express consent to be given in text form and only insofar as the third parties have also been obliged to maintain secrecy within the meaning of this § 13; this applies accordingly to the Supplier's own employees. The confidentiality obligation shall also apply after the execution of this contract; it shall expire if and to the extent that the production knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known without a breach of this confidentiality obligation. The Supplier undertakes to take appropriate technical secrecy measures for the fulfilment of its secrecy obligations (physical/electronic access control according to the "need to know" principle, through state of the art measures).

#### **§ 14**

##### **Place of Jurisdiction, Applicable Law, Written Form**

1. To the extent permitted by law, the place of jurisdiction shall be the place where we have our registered office. In the case of framework agreements, this jurisdiction shall also apply to disputes in connection with individual call-offs. However, we are also entitled to take legal action against the supplier at his place of business.
2. German law shall apply exclusively to our contractual relationship with the Supplier, to the exclusion of the CISG (Uniform UN Sales Law) and such conflict-of-law provisions as may be waived, according to which foreign law would be applicable.

End of the Terms and Conditions of Purchase