

# **General Terms and Conditions for the Purchase of Beef**

## **§ 1**

### **Applicability**

- 1.) All supplies, services and offers of our suppliers shall be provided on the basis of these General Terms and Conditions of Purchase as amended from time to time. These Terms and Conditions form an integral part of all contracts concluded with our suppliers for the provision of supplies and services offered by them. They shall also apply to all future supplies, services or offers provided to us, even if their applicability is not agreed upon separately again.
- 2.) General terms and conditions of suppliers shall not apply, even if we do not explicitly object to their applicability in an individual case, and even if we accept deliveries from suppliers without reservation despite our knowledge of general terms and conditions of the supplier that differ or deviate from our General Terms and Conditions of Purchase.
- 3.) Our General Terms and Conditions of Purchase only apply vis-à-vis entrepreneurs, legal persons under public law and special funds under public law.

## **§ 2**

### **Orders, Documents**

- 1.) No contract will be formed with a supplier unless such supplier holds a valid EU-licence. The supplier shall provide evidence thereof upon request.
- 2.) Unless our offers explicitly specify a commitment period, we shall be bound by our offers for one week from the date of the offer. The time at which we receive the declaration of

acceptance of the order shall be authoritative for determining whether the order has been accepted in time.

- 3.) The supplier shall inform us, in writing, in advance of any changes in the production of goods. Such changes may not be made without our prior written consent.
- 4.) All drafts, calculations, project models etc. of the supplier shall be provided free of charge and shall not be binding on us, even if such services or supplies are usually provided against payment.
- 5.) All necessary commercial documents, in particular delivery notes and invoices, must state our order numbers.

### § 3

#### **Prices, Payment Conditions, Assignments**

- 1.) Unless otherwise agreed, the price shown in the order shall be deemed to be in EURO. The price is binding. It includes free delivery including packaging, transport costs and insurance. Packaging material shall only be returned upon separate agreement. For imported goods the price shall be deemed to include customs, taxes and, where applicable, inspection costs.
- 2.) Delivery notes and invoices must indicate the order number shown in the order. The supplier shall be liable for all consequences resulting from the failure to comply with this obligation, unless the supplier proves that it is not responsible for these consequences.
- 3.) Unless it is agreed to the contrary we will pay the purchase price within 14 days of the date of delivery and receipt of the invoice with a 3% discount, or net within 30 days of receipt of the invoice.
- 4.) We reserve all rights of set-off or retention provided by applicable law. We may also offset claims of our affiliates which were assigned to us.

- 5.) Claims against us may not be assigned, unless the assignment is made within the scope of an extended reservation of title.

#### § 4

#### General Requirements

All goods offered and supplied to us by the supplier shall, in principle, meet the following requirements:

1. All legal regulations and applicable EU-directives have to be complied with, in particular:
  - a) The provisions of the Regulation (EU) 853 – 854/2004, the basic Regulation (EC) 178/2002 and the regulation (EC) 2073/2005, in each case as amended from time to time;
  - b) the provisions of the EU-Council directives and their subsequent amendments on health conditions for the production and marketing of fresh meat and of the legislation with regard to TSE/BSE, in each case as amended from time to time;
  - c) the provisions of the [German] Food Act and the meat inspection ordinance, in each case as amended from time to time;
  - d) the provisions concerning the labelling of products containing genetically modified ingredients, additives and flavours (GMO), as amended from time to time, as well as the requirements of the Food Information Regulation;
  - e) the provisions of the [German] Act on Weights and Measures (*Eichgesetz*), the [German] Food Labelling Ordinance, in each case as amended from time to time;

- f) the customs regulations, as amended from time to time;
  - g) the rules on the labelling of beef, as amended from time to time;
  - h) the standard set by the BSCI-code of conduct.
2. All goods supplied have to comply with the general standards and specifications, in particular those laid down in food law, all specifications for raw materials which have been confirmed in a binding manner and all specifications for meat products agreed on in individual cases.
  3. The supplier shall enclose with the specifications for wrapping and packaging material a certificate of authenticity regarding the classification as being fully food-safe.
  4. The supplier shall mark all products with clearly recognizable health marks.
  5. Each box of fresh meat (in Euro boxes or hanging) or wrapped meat (in Euro boxes and wrapped in foil, vacuum-packed or packed in modified atmosphere) shall bear the date of slaughter, the cutting date and, if applicable, the packing date as well as the EU number.
  6. In the case of deep-frozen meat at least each pallet has to be marked with the date of freezing and the date of minimum durability at a temperature of – 18 degrees Celsius. For products in Euro boxes, wrapped or packaged products such information shall also be marked on each individual package. The date of freezing shall not be later than four days after the date of slaughter. Defrosted meat shall be labelled both with the date of freezing as well as with the defrosting date.
  7. Unless it is agreed to the contrary, delivery notes shall indicate the aforementioned dates for each individual batch (date of slaughter, cutting date, date of freezing, origin, and, if applicable, defrosting date).

**§ 5****Delivery Times, Passing of Risk**

- 1.) The delivery time (date or period of delivery) specified in the order is binding.
- 2.) If circumstances occur or become apparent which indicate that the delivery time cannot be met, the supplier shall immediately notify us thereof in writing.
- 3.) If the latest date for delivery can be determined from the contract, the supplier shall be in default at the end of this date, without the need for a reminder.
- 4.) In case of default in delivery we shall be entitled to all statutory rights, in particular the right to rescind the contract and claims for damages, including consequential damages, futile expenses and loss of profits. Without prejudice to any other rights that we may have, the supplier shall pay liquidated damages at a rate of 0.1% of the delivery value per day up to a maximum of 5 % of the order value. The supplier may prove that no damage or a substantially lower damage has been caused by the delay.
- 5.) Partial deliveries are not allowed.
- 6.) Risk shall pass to us at the time the goods are handed over to us at the agreed place of destination, even if it was agreed that the goods shall be shipped to another place than the premises of the supplier.

**§ 6****Transport, Delivery, Storage, Packaging**

- 1.) Without prejudice to the statutory requirements, the Supplier shall in any event ensure that fresh meat, perishable meat and other raw materials that require cooling are transported and delivered at a maximum core temperature of +4°C. The core temperature of offal and by-products of slaughter shall not exceed +3°C.

- 2.) Without prejudice to the statutory requirements, the supplier shall in any event transport and store frozen goods at a maximum temperature of - 22°C. The core temperature of such goods must not exceed - 18°C.
- 3.) On the date of delivery the supplier shall send us delivery notes with detailed information on quantity and weight. In case of partial deliveries the remaining quantities still to be delivered shall be specified. The delivery note shall also indicate the gross and net weight as well as the date of slaughter, the cutting date and, if applicable, the date of freezing.
- 4.) The personnel delivering the goods on behalf of the supplier may only enter our delivery area in clean and full protective clothing. Such personnel shall comply with our hygiene rules. If the supplier hires a forwarding agent, it shall ensure that the forwarding company and their personnel also comply with the delivery conditions.
- 5.) All personnel delivering the goods shall be in possession of a valid health certificate and/or the certificate stating that they have received instructions by the veterinary office in accordance with § 43 IfSG (*German Infection Protection Act*), respectively. The personnel delivering the goods shall be instructed each year about the provisions of the Infection Protection Act. Copies of the corresponding supporting documents shall be produced at our request. In addition, the supplier shall ensure that the delivery shall be carried out in accordance with IFS food standard Version 6 (Food Defense).
- 6.) Meat, meat products and offal may only be transported in perfectly hygienic refrigerated vehicles that have been cleaned and disinfected before each reloading.
- 7.) Refrigeration equipment of delivery vehicles must be designed in such a way that the transport and delivery temperatures prescribed by law are guaranteed. In addition, the supplier shall keep the cooling curves for three months and shall, within 24 hours of our request, provide records of transport procedures for any delivery requested by us.
- 8.) If hanging goods are delivered the supplier shall guarantee unloading via a tubular rail connection.

- 9.) Half- and quarter carcasses shall be delivered hanging on Euro-meat hooks. Hooks must enter the carcass at the rind side and leave the carcass at the flesh side.
- 10.) In the case of half carcasses that are “bone in”, heads shall be delivered in bundles of ca. 120 kg each. The heads must be properly severed, i.e. there shall be no more neck attached to the head.
- 11.) Goods that are not transported hanging shall be protected in Euro-boxes against negative influences. The Euro-boxes must be in perfect hygienic condition and must not be put unprotected below hanging goods. The supplier shall ensure the spatial separation of packaged and unpackaged goods.
- 12.) Wrapped/ packaged goods are delivered in Euro-boxes. If goods are delivered in cartons, the cardboard boxes shall be in perfect hygienic condition. The type of packaging will be specified when the purchase order is made or in our respective product specification. Foils coming into direct contact with the food shall be coloured in blue.
- 13.) Euro-boxes in which goods are transported shall only be delivered stacked on plastic pallets, preferably Euro-H1. The Euro-boxes and pallets shall be in perfect hygienic condition and must not show any sign of damage.
- 14.) The tare weights of the pallets and all packaging will be deducted when determining the net weight.
- 15.) Quarters of beef with vertebral bones must be free from central nervous system tissues (spinal cord).
- 16.) Only Euro-hooks which have been cleaned in the areas that are in contact with the products may be used.
- 17.) Each shipment shall be accompanied by the corresponding delivery note/freight documents. In the case of beef the freight documents shall contain the required information regarding origin (birth, fattening, slaughter, cutting) and, for each article, all batch numbers contained in the consignment. The supplier shall also indicate the number of boxes, hooks

and pallets. For goods delivered in cartons the delivery notes shall indicate the number of boxes, cartons, pallets and the net weight of the goods.

- 18.) Meat products shall be marked with a date of minimum durability. The remaining shelf-life must not be shorter than specified in the specifications.
- 19.) We will not accept any pieces of meat that have fallen down during transport. Such pieces shall be removed by the supplier's transport personnel.
- 20.) All goods supplied will be inspected in the incoming goods area by a skilled employee. In case of complaints, in particular due to a failure to comply with the aforementioned requirements or other requirements set forth in these General Terms and Conditions or provided by applicable law, the goods concerned will either be accepted with reservations only or rejected. Rejected goods shall be taken back and removed by the supplier's transport personnel.
- 21.) Defective goods or goods that are not fit for human consumption may be returned or disposed of by us at the risk and cost of the Supplier.
- 22.) All meat supplied must be free from harmful antibiotics and other prohibited or unauthorised active substances; after the use of authorised pharmacologically active substances the prescribed withdrawal periods must be complied with. After slaughter the meat supplied by the supplier must be fully tradable. The supplier shall be liable for any consequential damage and costs resulting from follow-up examinations imposed by the authorities.
- 23.) Upon our request, the supplier shall, at its own cost, take back packaging of all kind, in particular transport packaging.
- 24.) Where multi-way packaging (pallets, boxes etc.) is used, we will, if so agreed, return packaging of the same type and quality.



**§ 7****Quality Assurance, Control, Obligations to Inform**

- 1.) We exclusively buy food raw materials and food, whose production is controlled by a certified quality assurance system – including a HACCP-concept and a contingency plan – and that is produced in accordance with good manufacturing practice (GMP). The supplier and its sub-suppliers must be certified to IFS, BRC, DIN EN ISO 22000 and/or possess a USDA-Approval.
- 2.) The supplier shall, on its own initiative, provide all valid evidence that is required in this respect. In addition the supplier shall designate all relevant contact persons in charge of quality assurance and give us their current mobile phone numbers.
- 3.) We may, at any time during normal business hours, and even without prior notice, carry out inspections and quality controls (supplier audits) at the supplier's business or other premises, or arrange for such inspections and quality controls to be carried out.

In order to systematically evaluate the supplier, we will, upon consultation, regularly carry out supplier audits or appoint an expert to do so.

- 4.) The supplier shall ensure traceability of the origin of the goods supplied in accordance with regulation 178/2002/EC. It must also be ensured that the suppliers of the supplier have traceability in place in accordance with these requirements. The supplier takes retention samples from all batches of goods to be supplied which we are authorised to access, in accordance with the statutory requirements and according to a plan to be coordinated with us.
- 5.) In accordance with the statutory requirements and according to a plan to be coordinated with us, the supplier shall, at its cost, procure that microbiological, chemical and physical tests as well as residue studies of the batches of goods to be delivered are carried out by an approved and accredited specialist laboratory. At our request, the results of such tests and studies shall be provided to us free of charge.

- 6.) If a test or study report mentioned in the previous paragraph gives reason to believe that one or more of the the goods supplied are not merchantable, the supplier shall immediately and on its own initiative submit the report in question. We are entitled to appoint an institute to carry out follow-up examinations at the cost of the supplier.
- 7.) The supplier shall bear any and all consequential costs, e.g. due to recalls, caused by deviations in quality for which the supplier is responsible and/or incorrect tests, and shall compensate us for any such costs. If the bacteriological limit values are exceeded, the supplier shall reimburse us for all examination costs incurred as a result thereof. In addition the supplier shall pay a handling fee of 100.00 EUR as compensation for our additional expenses. The supplier shall be entitled to prove that no damage or a lower damage has been incurred by us.
- 8.) We will evaluate the results of the supplier audits, the inspection of incoming goods and the bacteriological status of all supplies and will thereby arrive at a classification of the reliability of the supplier for a specified period of time.
- 9.) Depending on the result of our inspection of the incoming goods we reserve the right to notify the veterinary authority responsible for the supplier's business or the slaughterhouse.
- 10.) If the food raw materials or food to be supplied contain genetically modified organisms the supplier shall separately inform us thereof in writing before the conclusion of the purchase agreement.
- 11.) If the food raw materials or food to be supplied contain substances classified as allergenic in accordance with Annex III to the European directive 2000/13/EC the supplier shall separately inform us thereof in writing before the conclusion of the purchase agreement. Prior notification shall also be given by the supplier if it has reason to believe that the food raw materials or food to be supplied might inadvertently contain such substances classified as allergenic.

**§ 8****Special Provisions for Beef**

- 1.) For wrapped beef that needs to be matured, the date of maturation shall be indicated, in addition to all other required information.
- 2.) The label shall contain information concerning origin in accordance with the German regulation regarding the labelling of beef (*Rindfleischetikettierungsverordnung*).
- 3.) The supplier shall provide evidence that its beef labelling system has been approved by the [German] Federal Office for Agriculture and Food (*BLE-Bundesanstalt für Landwirtschaft und Ernährung*) in accordance with regulation (EC) 1760/2000. Non-German suppliers shall provide documentary evidence of the corresponding approval in the country concerned. Non-EU suppliers require approval by the EC in Brussels.
- 4.) Our microbiological requirements shall apply. The current version thereof can be found on our homepage.
- 5.) Prior to and as a basic condition for the approval of the supplier and acceptance of the first shipment by us, the supplier shall send us a product-related questionnaire which has been fully completed and validly signed by the supplier (supplier questionnaire).
- 6.) Animals or meat from animals must neither originate from England, Northern Ireland or Switzerland nor from herds where cases of BSE have occurred. The supplier undertakes to ensure that the animals have not been fed with feed containing animal meal.

**§ 9****Warranty**

- 1.) The goods ordered are free from defects if they comply with our specifications, in particular those set forth in our product data sheets, these General Terms and Conditions of Pur-

chase and all other information provided as well as the generally accepted rules of food production and all applicable provisions and regulations.

- 2.) Changes in the composition or labelling of products or in the design of the packaging as compared to the specifications or the order require our prior written consent. Otherwise we are entitled to consider such changes in the composition or labelling of products or in the design of the packaging as defects.
- 3.) We will examine incoming goods for deviations in quality or quantity within a reasonable period of time. The commercial duty to examine shall be fulfilled by a thorough visual inspection of the goods supplied and an examination of the documents to be provided by the supplier, in particular the analytical reports regarding the batches supplied. We are under no obligation to carry out our own laboratory tests.
- 4.) Any notice of defect is deemed to have been given in time if given within 5 business days after receipt of the goods or, in case of hidden defects, within 5 business days after discovery of the defect.
- 5.) We reserve all rights and remedies resulting from material defects or defects of title provided by applicable law.

Recoverable damages include the costs incurred by us due to the fact that, in terms of food law, the goods supplied are not free of defects as well as all costs resulting from product analyses and laboratory tests that have become necessary as a result of such defect. In addition, the supplier shall reimburse us for all take-back, recall and other disposal costs that have been caused by the defective product supplied by the supplier.

We are entitled to reject and return goods supplied if the goods are delivered in violation of any requirements set forth in these General Terms and Conditions or any other agreements, or if as a result of official complaints there has been a public warning against buying or using such goods due to health or safety risks.

- 6.) Acceptance or approval of drawings or samples provided shall not constitute a waiver of our warranty claims.

- 7.) As soon as our written notification of defect reaches the supplier the statute of limitations with regard to warranty claims shall be suspended. In case of removal of defects or replacement the warranty period for any items repaired or replaced will recommence, unless we had to conclude from the supplier's behaviour that the supplier did not consider itself to be under an obligation to remedy the defect or deliver a replacement but carried out the measure as an accommodation only or for similar reasons.
- 8.) The period of limitation for all warranty claims shall be 36 months from the passing of risk.

## **§ 10**

### **Product Liability**

- 1.) If any claim or suit is brought against us based upon product liability, the supplier shall indemnify and hold us harmless from and against all claims, that are based on a defect of the supplied contract products and that are brought against us under the product liability laws of Germany, any EU member state or third country, if and to the extent that the cause of the damage originates from within the sphere of responsibility of the Supplier. The same applies to recourse claims of third parties who have satisfied claims for damages brought by any person who has suffered damage. The foregoing does not apply in cases of fault-based liability to the extent that no fault can be attributed to the supplier. In such cases the supplier shall indemnify and hold us harmless from and against all costs, including expenses for necessary product recalls and reasonable legal expenses.
- 2.) We will notify the supplier of any claims that are brought against us in respect of the supplied products and will also make all necessary documents available to the supplier. The supplier shall declare within 10 business days from receipt of these documents if we are to admit or reject such claims. In addition, the supplier shall provide all information required to defend against such claims.
- 3.) The supplier shall maintain product liability and recall insurance with coverage of at least € 15,000,000.00 for any one occurrence and shall, even after complete fulfilment of all

obligations under the contract, maintain such insurance coverage for a period of ten years after the processed goods are placed on the market by us. We may at any time request the supplier to provide current proof of proper insurance.

## **§ 11**

### **Reimbursement of Further Costs**

In the event of a complaint about the contract products by the authorities which is based on a manufacturing defect or any other circumstances attributable to the supplier, the supplier shall, without prejudice to any other rights that we may have based on defective performance of the supplier, bear all costs incurred by us as a result of official sampling or investigations. This obligation to bear the costs also includes the costs of any necessary recalls. In such cases, the supplier shall also bear or reimburse all legal costs.

## **§ 12**

### **Intellectual Property Rights**

- 1.) The Supplier shall be liable for the fact that neither the goods supplied by him nor their onward supply, processing or use by us violate any intellectual property rights of third parties, in particular utility models, patents or licenses.
- 2.) The supplier shall indemnify and hold us and our customers harmless from and against any claims brought by third parties based on the infringement of intellectual property rights and shall bear all costs incurred in this respect.
- 3.) In the case of conflicting third party rights, the Supplier shall, at its own expense, obtain from the holder of the rights, also for the benefit of us, the approval or license to supply, process and use the goods.
- 4.) The period of limitation shall be 10 years from the conclusion of the contract.

**§ 13****Secrecy**

- 1.) The supplier agrees to keep secret all information gained in the context of the cooperation, unless such information is in the public domain, has been lawfully obtained from a third party or developed independent of a third party; and further agrees to solely use such information for the purposes of this contract. The proprietary information includes, in particular, technical data, purchased quantities, prices and information on products and product developments, on current and future research and development projects and all of our business data.
- 2.) In addition, the supplier shall keep in strictest confidence all illustrations, drawings, calculations and other documents it receives, and shall not disclose the same to third parties without our prior written consent, unless the information contained therein is common knowledge.
- 3.) If necessary, the supplier shall impose a corresponding secrecy obligation on its sub-suppliers.
- 4.) At any time at our request, any in any event at the latest when the contract ends, all information originating from us (including any copies or records made) and items lent to the supplier shall be immediately returned to us in full, unless these are still required by the supplier for the performance of its contractual obligations. We reserve all rights to such confidential information, including copyrights, industrial property rights, patents, utility models etc.
- 5.) Products manufactured according to designs, documents, models etc. provided by us or according to specifications marked as confidential may be used by the supplier solely for the purposes stipulated in the contract; in particular such products may not be offered or supplied to third parties.

**§ 14**

**Final Provisions**

- 1.) As soon as the Supplier ceases to make payments or if a provisional insolvency is appointed or insolvency proceedings are opened, we are entitled to rescind the contract, in whole or in part.
- 2.) The contractual relationships shall be exclusively governed by the laws of Germany, to the exclusion of its conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG, UN-Sales law).
- 3.) The place of jurisdiction shall be 33378 Rheda-Wiedenbrück, Germany. In addition we are also entitled to bring an action at any other permissible place of jurisdiction.
- 4.) The place of performance for all obligations arising from the supply agreement shall be the point of reception designated by us.
- 5.) Should any part of these General Terms and Conditions of Purchase be invalid, the validity of the other provisions shall not be affected thereby.