

**GENERAL TERMS AND CONDITIONS OF PURCHASE****1 Scope**

- 1.1 The following general terms and conditions of purchase (hereinafter "GPC") apply to all procurement contracts of Th. Geyer Ingredients GmbH & Co. KG (Th. Geyer). We do not recognize any terms and conditions of the supplier that conflict with or deviate from our terms and conditions of purchase unless we have expressly agreed to them in writing. Confirmed deviations apply to the specific individual case, without effect for the future. Our GPC also apply if we accept the delivery without reservation in the knowledge of conflicting or deviating conditions from the supplier.
- 1.2 Our terms and conditions of purchase only apply to entrepreneurs (§ 14 BGB), legal entities under public law and special funds under public law.

**2. Conclusion of contract**

- 2.1 Our orders are only binding once they have been submitted or confirmed in writing.
- 2.2 Orders placed verbally or by telephone require subsequent written confirmation by Th. Geyer to be legally valid. The same applies to verbal side agreements and changes to the contract.
- 2.3 Unless we have expressly waived an order confirmation, each order must be confirmed to us in writing within one week, stating the binding delivery time. A late or supplementary acceptance of our order is considered a new offer and requires our acceptance.
- 2.4 The supplier is not entitled to have services provided by third parties without the prior written consent of Th. Geyer.
- 2.5 The supplier must treat the conclusion of the contract confidentially and may only refer to a business connection with Th. Geyer in Advertising material after Th. Geyer has given written consent.
- 2.6 The contracting parties undertake to treat as business secrets all non-public commercial or technical details that become known to them through the business relationship. Sub-suppliers are to be obligated accordingly.

**3 Prices, price changes, terms of payment**

- 3.1 The price stated in the order is binding. The supplier expressly objects to the right to change prices. Prices are stated without the statutory value added tax. Value added tax must be shown separately in all cases.
- 3.2 Unless otherwise agreed in individual cases, the price includes all services and ancillary services of the supplier (e.g. assembly and installation) as well as all ancillary costs (e.g. proper packaging and transport costs including any transport and liability insurance).
- 3.3 Invoices must show the order number as well as the date of the order or the call-off from us and the tax number of the supplier. Agreed partial or remaining deliveries must be marked as such on the delivery note and the invoice. If one or more of these requirements are not met and processing by us is delayed as a result within the framework of normal business transactions, the payment deadlines specified in paragraph 4 shall be extended accordingly.
- 3.4 Unless otherwise agreed, payments shall be made net within 30 days of delivery or acceptance and receipt of the invoice or within days with a 3% discount. The latest date is decisive for the deadline.
- 3.5 The supplier's claims against us may not be assigned to third parties without our express prior consent.
- 3.6 We do not owe interest on arrears. In the event of default in payment, the statutory provisions shall apply.
- 3.7 Th. Geyer is entitled to rights of offsetting and retention to the extent permitted by law. The supplier can only invoke a right of offsetting or retention if his claim is undisputed, recognized or legally established.

**4 Passing of Risk, Dispatch, Packing**

- 4.1 Delivery is DDP (according to Incoterms@2020 or the current version), unless otherwise agreed. The place of performance for the delivery obligation is our place of business in Hoexter-Stahle (duty to deliver), unless otherwise agreed.
- 4.2 The risk passes to us upon proper handover at the agreed place of delivery. The risk of any deterioration, including accidental loss, remains with the supplier until delivery to the shipping address or point of use desired by Th. Geyer. If acceptance has been agreed, this is decisive for the transfer of risk.
- 4.3 If it has been agreed that we will bear the shipping costs and we do not engage the carrier ourselves, the supplier must choose the mode of transport that is cheapest and most suitable for us.
- 4.4 The packaging must avoid damage during transport. You must comply with the legal rules applicable at the time of delivery. Reusable containers must be marked accordingly. The supplier is obliged to take back packaging material at our request. The supplier bears the costs for improper packaging and improper shipping.  
All shipments must be accompanied by a packing slip and a delivery note stating our order number, item description, item number, date and quantity. In addition, a notice of dispatch must be sent to us by separate mail. If one or more of these requirements are not met, we are not responsible for the resulting delays.

**5 Delivery, partial deliveries pr partial performance**

- 5.1 The delivery time specified in the order is binding. If the delivery date elapses, the supplier is in default with the delivery without the need for a reminder. Receipt of the goods at the point of receipt or use specified by Th. Geyer is decisive for compliance with the delivery date or the delivery period. If the supplier has reason to assume that he will not be able to fulfill his obligations in whole or in part or not on time, he must inform Th. Geyer immediately in writing, stating the reasons and the expected duration of the delay. The supplier bears the additional costs for the replacement deliveries as soon as possible. Partial deliveries or partial services are only permitted with our prior consent.
- 5.2 If the supplier does not provide his service in whole or in part or does not do so within the agreed delivery time or if he is in default, our rights – in particular to withdrawal and compensation for damages – are determined by the statutory provisions.

- 5.3 If the supplier is in default by exceeding the delivery date, Th. Geyer is entitled to demand a contractual penalty of 0.2% of the order amount per working day, but no more than 5% of the order amount. The reservation of asserting the contractual penalty can still be asserted until the invoice has been paid. The contractual penalty shall be offset against a claim for damages for delay. We reserve the right to assert further damages.
- 5.4 If a specific delivery date has not been agreed, deliveries must be made on working days during normal business hours in accordance with the delivery requirements. The signing of the delivery note or the actual acceptance of the delivered goods do not contain any statement as to whether the delivery is in accordance with the specifications. The supplier shall bear all costs in connection with goods not accepted by Th. Geyer.

## 6 Export Control and Customs

The supplier is obliged to inform Th. Geyer in his business documents about any license requirements for (re-)exports of his goods in accordance with German, European, US export and customs regulations as well as the export and customs regulations of the country of origin of his goods. To this end, the supplier shall provide the following information for the goods items concerned in its price lists, offers, order confirmations and invoices:

- The export list number in accordance with Annex AL to the German Foreign Trade and Payments Ordinance, the European Annex IV to the EC Dual-Use Regulation, the European Annex I or comparable list positions of relevant export lists for US goods the ECCN (Export Control Classification Number) according to the US Export Administration Regulations (EAR).
  - The commercial origin of its goods and the components of its goods, including technology and software.
  - The commodity code (HS code) of its goods.
  - A contact person in his company to clarify any queries from Th. Geyer.
- 6.1 The supplier is obliged to inform Th. Geyer in writing of all foreign trade data for its goods and their components and to inform Th. Geyer immediately (before delivery of the goods affected by this) of all changes to the above data in writing.
- 6.2 The supplier has filled out the necessary export control declarations in full, signed them and sent them to Th. Geyer with the necessary documentation. The order only becomes effective when the complete and signed declaration has been sent. Products that are subject to special export conditions must be reported in advance, stating the list in which they are listed (German export list, the European Annex I, the European Annex IV to the EC dual-use regulation or other relevant export lists).
- 6.3 Supplier warrants that the information provided in the Export Control Statement is complete and accurate. If there are future changes to the delivery items that change the classification of the goods under export control law, the supplier will immediately inform Th. Geyer of these changes.
- 6.4 The supplier indemnifies Th. Geyer from all claims or other sanctions that arise against Th. Geyer due to violations of export control law in connection with the delivery items. This does not apply if the supplier is not responsible for the violations concerned.

## 7 Check for Defects

- 7.1 Section 377 of the German Commercial Code (HGB) applies to our commercial duty to inspect and give notice of defects with the following proviso: We will check the delivered goods immediately after receipt of the goods with regard to the type, quantity and obvious damage, such as in particular transport damage, and immediately give notice of any defects discovered. Defects discovered later are to be reported immediately after their discovery. In any case, the complaint is deemed to be immediate and timely if it is received by the supplier within a period of 10 working days calculated from the receipt of the goods or, in the case of hidden defects, from their discovery.
- 7.2 Payments do not imply a waiver of the right to complain.

## 8 Liability, freedom from third-party rights

- 8.1 Th. Geyer contradicts any limitation of liability in the general terms and conditions of the supplier.
- 8.2 The supplier guarantees that the goods delivered by him are free from third-party rights (brands, patents, utility models, copyrights, protected designs, ancillary protection under competition law) which could impede the resale of the goods in the EU and EFTA. The supplier shall indemnify Th. Geyer against all costs of legal defense against claims asserted by third parties due to infringements of the goods delivered by the supplier. This does not apply if the supplier is not responsible for the infringement in question. Th. Geyer also has the statutory claims for damages.
- 8.3 The supplier also guarantees that the goods can be resold worldwide without infringement of intellectual property rights.
- In this respect, the supplier waives rights from trademarks, patents, utility models, copyrights, protected designs or ancillary protection under competition law, which he could assert against the resale of the goods outside the EU or the EEA. The supplier shall indemnify Th. Geyer against all costs of legal defense against claims asserted by third parties due to infringements of the goods delivered by the supplier. This does not apply if the supplier is not responsible for the infringement in question. Th. Geyer also has the statutory claims for damages.
  - The supplier further undertakes to ensure that third parties outside the EU or the EEA also do not assert any rights from trademarks, patents, utility models, copyrights, protected designs or ancillary protection under competition law that are held against the resale of the goods outside the EU or the EEA could. The supplier shall indemnify Th. Geyer against all costs of legal defense against claims asserted by third parties due to infringements of the goods delivered by the supplier. This does not apply if the supplier is not responsible for the infringement in question. Th. Geyer also has the statutory claims for damages.

## 9 Warranty of Material Defects

- 9.1 The statutory provisions shall apply in full to our rights in the event of material defects and defects of title in the goods (including incorrect and short deliveries as well as improper assembly, defective assembly, operating or operating instructions) and other breaches of duty by the supplier, unless otherwise specified below is.
- 9.2 If the deliveries and the packaging are defective, Th. Geyer is entitled to request repairs or replacement deliveries at its discretion. In the event of imminent danger or if the supplier is in arrears with the supplementary performance requested by Th. Geyer or refuses this or the supplementary performance requested by Th. Geyer fails, Th. Geyer is entitled to remedy the defects itself at the supplier's expense leave or obtain a replacement. Th. Geyer decides at its best discretion when "imminent danger" exists.
- 9.3 According to the statutory provisions, the supplier is particularly liable for ensuring that the goods have the agreed quality and state of the art at the time the risk passes to us, and that the agreed specifications are complied with.
- 9.4 In addition, the supplier is liable for ensuring that the goods/services comply with the laws, regulations and technical standards applicable in the EU/EFTA on the day of performance and that they comply with the agreed specifications.
- 9.5 The costs incurred by the supplier for the purpose of testing and rectification (including any installation and removal costs) shall be borne by the supplier. In the event of an unjustified request for the rectification of defects on our part, we shall only be liable for damages if we have recognized or failed to recognize through gross negligence that there was no defect.
- 9.6 If the supplier does not meet his obligation to provide supplementary performance within a reasonable period set by us, we can remedy the defect ourselves and demand reimbursement of the expenses required for this or a corresponding advance payment from the supplier. If the supplier refuses subsequent performance or if it is a fixed debt or if the subsequent performance by the supplier has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline is required; the supplier must be informed immediately, if possible in advance.
- 9.7 Claims from guarantees given by the supplier remain unaffected.

## 10 Product Liability, Precautionary Measures

- 10.1 Insofar as the supplier is responsible for product damage, he is obliged to indemnify us from claims for damages by third parties upon first request if the cause lies within his sphere of control and organization and he is himself liable in the external relationship.
- 10.2 As part of his indemnification obligation in terms of paragraph 1, the supplier is also obliged to reimburse us for any expenses that result from or in connection with claims by third parties. Other legal claims remain unaffected.
- 10.3 The supplier is also obliged to bear the costs for precautionary measures and the resulting damage if the cause of the precautionary measure lies within the sphere of control and/or organization of the supplier and he is himself liable to third parties. Before taking precautionary measures, we will inform the supplier - as far as possible and reasonable - about the reason, type and scope of the measure and give him the opportunity to comment. Precautionary measures are measures that relate not only to individual defective products from us, but to a large number of our products, in particular recall and conversion campaigns.
- 10.4 The supplier undertakes to take out and maintain product liability insurance with coverage of at least €10 million per damage – flat rate. The supplier will send us a copy of the liability policy at any time upon request.

## 11 Promotional Material Provided by the Supplier

If the supplier is interested in the products it offers being included in the Th. Geyer catalogue, brochures and/or the web shop using illustrations and being distributed using the catalogue, brochures and/or the web shop, applies for image, text, sound and other materials made available by the supplier for this purpose:

- The supplier grants Th. Geyer free of charge the non-exclusive right, unlimited in terms of content, time and place, to use the material and all other information and documents in whole or in part for advertising purposes in physical and non-physical form, in particular to reproduce them disseminate and/or make available to the public. This includes in particular the right to include the image material, information and documents in the Th. Geyer catalogue, but is not limited to this.
- Th. Geyer is entitled to pass on the material and the catalog to its customers in whole or in part in physical and/or electronic form and to grant them the right, without this triggering any payment obligations on the part of Th. Geyer or the customer in favor of the supplier. to use the material and the catalog in whole or in part in physical and/or intangible form, in particular to disseminate it and/or make it accessible to the public.
- The supplier guarantees Th. Geyer that it has all the rights required to fulfill this agreement. In the event that third parties assert claims against Th. Geyer due to the use of the illustrations, documents and information made available to Th. Geyer, the supplier shall indemnify Th. Geyer from all claims. This does not apply if the supplier is not responsible for the infringement in question.

## 12 REACH-clause

- 12.1 The supplier assures that he will not deliver any goods to Th. Geyer that contain or release substances that, in accordance with REGULATION (EC) No. 1907/2006 OF THE EUROPEAN PARLIAMENT AND THE COUNCIL of December 18, 2006 on registration, evaluation, approval and Restriction of Chemical Substances (REACH-VO) including any future additions and changes at the time of their delivery to Th. Geyer require registration or approval, but are not registered or approved.
- 12.2 If substances within the meaning of sentence 1 as such or in preparations or in articles do not yet require registration due to the transitional provisions for phase-in substances regulated in the REACH Regulation at the time of delivery to Th. Geyer, the supplier warrants that either to have pre-registered these substances themselves in the correct form and on time, or to have made sure that they were pre-registered in the correct form and on time by the person subject to registration.

- 12.3 The supplier also undertakes to inform Th. Geyer immediately if it becomes apparent to him that a substance that has been pre-registered in accordance with sentence 2 will not be registered within the transition period relevant to the substance in question. In this case, he will not deliver any goods containing the substance in question to Th. Geyer at the latest by the end of the relevant registration period without pointing out the missing registration before sending the delivery and without expressly asking Th. Geyer to confirm the order.
- 12.4 If the supplier has violated his obligations under paragraph 1, 2 or 3, Th. Geyer is entitled to withdraw from the contract insofar as the goods do not or no longer meet the requirements of the REACH Regulation. In the event of withdrawal, Th. Geyer may return the goods to the supplier or dispose of them, both at the expense of the supplier, who must make a reasonable advance payment for this.
- 12.5 For the duration of the supply relationship with Th. Geyer, the supplier warrants that the pre-registration, registration or approval that is required by the REACH Regulation and carried out by the supplier for substances contained in the goods delivered to Th. Geyer or released by them to maintain. If the supplier has not pre-registered, registered or authorized the respective substance himself, he assures that he has ensured that he will be informed immediately if the pre-registration, registration or authorization is no longer available. The supplier further undertakes to inform Th. Geyer immediately after becoming aware of the omission of a required pre-registration, registration or approval of a substance delivered to Th. Geyer and to no longer deliver any goods to Th. Geyer from the time of the omission that contain such substances contain or release.
- 12.6 The supplier assures that he will send Th. Geyer a current, complete safety data sheet that meets the requirements of the REACH regulation with every delivery - regardless of whether the transmission is mandatory according to the REACH regulation or only has to take place on request. If the supplier has to carry out a chemical safety assessment, he also warrants that he has checked the safety data sheet for consistency with the chemical safety assessment and has adjusted it if necessary. If the safety data sheet is neither mandatory nor to be provided on request according to the requirements of the REACH Regulation, the supplier assures that it will provide information on the registration number (if available), any authorization requirement and information on authorizations granted or refused, on restrictions and all other available and relevant information required to identify and apply appropriate risk management measures (safety information) in writing or electronically.
- 12.7 Changes to safety data sheets or safety information must be reported to Th. Geyer immediately and identified in the updated safety data sheet / safety information enclosed with the first delivery.
- 12.8 If the supplier is obliged to carry out a chemical safety assessment and to create a chemical safety report for a substance contained in a product delivered to Th. Geyer or released by it, in particular due to a use of a substance announced by Th. Geyer, the supplier warrants that this assessment and to have included conclusions in the safety data sheet or safety information.
- 12.9 If the supplier delivers products to Th. Geyer that contain more than 0.1 percent by mass (w/w) of one or more substances that meet or meet the criteria of Art. 57 of the REACH regulation (i.e. in the list of substances subject to authorization) and have been determined in accordance with Article 59, Paragraph 1 of the REACH Regulation (i.e. have been included on the "candidate list"), the supplier also provides sufficient information for safe use of the product.
- 12.10 The fulfillment of the above obligations from paragraphs 1 to 9 are the main obligations of the supplier.
- 12.11 In the event of a violation of the obligations from paragraphs 5 to 9, Th. Geyer is entitled to withdraw from the contract if the supplier does not remedy the violation within a reasonable period set by Th. Geyer. Further claims for damages remain unaffected.
- 12.12 If claims are made against Th. Geyer by a third party who has purchased goods delivered by Th. Geyer because the delivered goods do not meet the requirements of the REACH-VO, the supplier is obliged to notify Th. Geyer at their first written request indemnify claims insofar as this claim by Th. Geyer is based on a violation of the supplier's obligations from this regulation. This does not apply if the supplier is not responsible for the infringement in question. Th. Geyer will not make any agreements with the third party without the consent of the supplier, in particular no settlement. The obligation to indemnify applies to all expenses that Th. Geyer inevitably incurs from or in connection with the claim by the third party, in particular legal defense and administrative costs as well as costs of a necessary replacement purchase.

### 13 Compliance-clause

- 13.1 The Supplier hereby confirms that it does not employ or will employ any person under the age of fifteen, in the case of hazardous work: no person under the age of eighteen, for the manufacture of goods or the provision of services (child labour). Supplier confirms that it has used reasonable efforts to determine whether its suppliers use child labor in the manufacture of goods or the provision of services and that this reasonable investigation has not revealed anything to that effect.
- 13.2 The Supplier hereby confirms that the workers employed by him or in the future for the manufacture and delivery of the Goods or for the provision of the Services are present voluntarily.
- 13.3 The supplier is aware that these confirmations and commitments are essential parts of the contract. The supplier shall compensate Th. Geyer for any damage caused by the supplier or one of his suppliers violating this provision. The supplier exempts Th. Geyer in this respect.
- 13.4 If Th. Geyer informs the supplier of a violation of paragraph 1, the supplier will eliminate this violation immediately. If Th. Geyer finds that the supplier has not eliminated the violation within a reasonable period of time, this represents an important reason for Th. Geyer to terminate any contracts with the supplier without notice.
- 13.5 The supplier hereby confirms that he will not engage in any illegal practices, such as giving financial benefits or other gifts to Th. Geyer employees or their family members in order to obtain orders from Th. Geyer. He will not engage in any such practices in the future. Th. Geyer can terminate any contracts with the supplier without notice in the event of a violation. The supplier then owes damages and exemption from claims that third parties can assert against Th. Geyer.

13.6 The supplier confirms that he will at least comply with the content of the United Nations Global Compact, regulations of the ILO of the OECD and the Charter of Fundamental Rights of the EU. Th. Geyer may conduct audits during normal business hours and after reasonable notice to ensure compliance with legal requirements. If Th. Geyer discovers a violation of these laws, Th. Geyer may terminate any contracts with the supplier without notice for good cause. The supplier then owes damages and exemption from claims that third parties can assert against Th. Geyer.

#### **14 Statute of limitations**

- 14.1 The mutual claims of the contracting parties become time-barred in accordance with the statutory provisions, unless otherwise specified below.
- 14.2 Deviating from §§ 438 Section 1 No. 3, 634 a Section 1 No. 1 BGB, the general limitation period for claims due to material or legal defects is three (3) years from the transfer of risk. If acceptance has been agreed, the limitation period begins with acceptance or the third party named by Th. Geyer at the receiving point named by Th. Geyer. Longer statutory limitation periods due to defects remain unaffected. This applies in particular to claims due to defects that exist in a right in rem of a third party, on the basis of which the surrender of the purchased item can be demanded, or in another right that is entered in the land register (§ 438 Para. 1 No. 1 BGB).
- 14.3 For repaired parts or parts delivered as replacements, the limitation period mentioned in section 15, paragraph 2 of these GTC begins anew with the repair or replacement delivery.
- 14.4 Insofar as we are entitled to recourse claims against the supplier on the basis of the provisions on the sale of consumer goods (§§ 478, 479 BGB), § 479 BGB applies to the statute of limitations for recourse claims, but the statute of limitations does not come into effect before the expiry of the period regulated in Section 15, Paragraph 2 of these GTC a.
- 14.5 In the case of fraudulent concealment of a defect by the supplier (§§ 438 Para. 3, 634 a Para. 3 BGB) and insofar as we are also entitled to competing contractual and/or non-contractual claims for damages due to a defect, the regular statutory limitation period (§§ § 195, 199 BGB), but the statute of limitations does not come into effect before the expiry of the period stipulated in Section 15, Paragraph 2 of these GTC. The statutory limitation periods under the Product Liability Act remain unaffected in any case.

#### **15 Confidentiality**

- 15.1 The supplier is obliged to treat all business or technical information made accessible by us as strictly confidential and to oblige his employees accordingly. Such information may only be passed on to persons who need this information for the purpose of supplying Th. Geyer; all such information remains our sole property. The duty of confidentiality does not apply if the information is already generally known or if it can be proven that it was already known to the supplier before we communicated it. The same applies if the information becomes generally known after disclosure without a breach of contract, becomes known to the supplier from third parties without these third parties breaching a confidentiality obligation, the information is developed independently and independently of the information transmitted by us by the supplier itself or by are disclosed to us in public or must be disclosed due to legal regulations. Infringements oblige to compensation.
- 15.2 The supplier may not refer to the business relationship with Th. Geyer without the prior written consent of Th. Geyer.

#### **16 Choice of Law, Jurisdiction**

- 16.1 If the supplier is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our place of business in Renningen. In addition, we are entitled to sue at the court that has jurisdiction at the supplier's registered office.
- 16.2 The contractual relationship is subject to the law of the Federal Republic of Germany to the exclusion of the UN Sales Convention.

#### **17 Severability**

- 17.1 Should one of the aforementioned provisions be or become invalid or incomplete, this shall not affect the validity and enforceability of the remaining provisions.

Stand: 05/2022