

# CONDITIONS OF PURCHASE

For all orders from

**NovaTaste Production GmbH**  
Eichendorffstraße 25  
83395 Freilassing  
Germany  
Commercial Register (HRB) No. 162,

unless otherwise agreed in writing, the following conditions apply:

## 1. Scope, changes

Our conditions of purchase shall apply exclusively to our orders, which shall also apply to all future transactions, without the need to refer to them again separately. Any different terms and conditions of the supplier shall only apply if they are expressly acknowledged by us in writing for each individual case.

Offers from suppliers are free of charge for us and do not create any obligation whatsoever. On no account is silence to be considered as acceptance.

We may also request changes to the subject matter of the contract after conclusion of the contract, insofar as this is reasonable for the supplier. This change to the contract shall take into account the effects of both parties, in particular with regard to additional or reduced costs and delivery dates.

## 2. Order placement

Orders may only be placed in writing, by fax or e-mail. Agreements and/or changes to contracts made in any other forms shall only become binding upon our written confirmation.

## 3. Order confirmation

Each order or call-off order must be confirmed in writing by the supplier without delay, stating a binding delivery time.

This also applies if we order partial deliveries on the basis of a binding framework agreement. We must receive the confirmation within five days. The period begins on the day following the date of the order being placed with us. If we do not receive the confirmation within this period, our order shall expire; a contract shall only be concluded if we expressly accept the delayed confirmation in writing. The confirmation is deemed to be an unreserved acceptance of our order and acceptance of our conditions of purchase.

Order confirmations that deviate from our order are considered to be a new offer and will only become part of the contract if we have agreed to them in writing.

Our silence regarding a new offer is not to be considered as acceptance; rather, a delivery is considered to be a retrospective acknowledgement of our order or our conditions of purchase; in such cases, we are entitled, but not obliged, to accept the delivery on our terms and conditions; we are also not obliged to return or store unsolicited goods.

Anything else shall only apply if the order confirmation contains an explicit contradiction or deviation; the transmission of deviating terms and conditions, a reference thereto and any other declaration

in the pre-formulated part of the order confirmation is not sufficient. Any confirmation that expressly contradicts or deviates from our order and/or our conditions of purchase shall be deemed a rejection of our order and is not binding on our part. Our silence shall not be deemed to be acknowledgement; rather, delivery shall be deemed to be retrospective acceptance of our order and conditions of purchase; in such cases, we shall be entitled to accept delivery on our terms.

## 4. Scope of delivery

Delivery must take place in exact accordance with our order. Our written consent must be obtained for excess or short deliveries. If more is delivered than ordered, there is no change to the contract in the acceptance of the excess quantities by us. Rather, the excess delivered part must be returned at the supplier's expense upon our request. Short quantities must be delivered immediately in the event of other aliquot price reductions, insofar as we expressly accept a short delivery.

## 5. Delivery time

The supplier undertakes to provide the service on time. Circumstances (including force majeure) that make it impossible to meet the delivery date must be communicated without delay, stating the reasons and the expected delay. In the event of non-compliance with the agreed delivery periods and delivery deadlines, we reserve the right to insist either on fulfilment of the contract and to claim damages due to delay, or to withdraw from the contract and claim damages due to non-compliance. In addition, we are entitled to obtain compensation for delayed deliveries or short deliveries from third parties at the expense of the supplier.

## 6. Delivery quality

All deliveries must have the commercial characteristics and suitability required in the order without restriction or in the absence of special requirements. The condition and suitability required in the order shall be deemed to be agreed. A specification must be submitted for all food and packaging supplied to us, regardless of whether it is used for production or testing purposes. Specifications must be updated by the supplier immediately in the event of changes, but at least annually, and made available to us.

When supplying foodstuffs, other substances used in food production, packaging materials for foodstuffs and other materials that come into contact with foodstuffs during the manufacturing or packaging process, the agreed condition is that they comply with all relevant provisions of the food law applicable in Austria and Germany and are safe for the purpose notified or known to the supplier. Costs for packaging, labelling and insurance of the goods shall be borne by the supplier until acceptance of the delivery.

When delivering food or packaging, the product and transport packaging as well as the means of transport used must be in a hygienically sound condition. All shipments must be labelled in accordance with the relevant specifications.

When supplying machines and technical equipment of all types, the agreed condition is that they comply with all statutory provisions on accident prevention and other safety measures applicable in Austria and Germany, as well as environmental protection and all

other generally recognised standards (e.g. ÖVE, CE and DIN standards).

The supplier agrees that our representatives may visit its production operations at any time during normal working hours without prior notification and that our quality assurance measures (our quality assurance system) and the associated documents can be viewed by us.

## 7. Warranty, guarantee

The supplier guarantees that its delivery has the contractual quality of the purchased item, complies with the relevant legal provisions (e.g. safety, occupational health, environmental and food law regulations), is not affected by faults that override or reduce the value or suitability for normal or contractually assumed use and do not violate the rights of third parties. The supplier undertakes to inform us immediately of all technical and factual information that is essential for the product, including with regard to product changes, as well as the manufacturer of the product and the name of the importer who placed the product on the market.

In the case of purchase and work supply contracts, we will notify the supplier immediately in writing of any open defects in the deliveries as soon as they are determined in accordance with the conditions of a proper business process. In any case, our notification shall be deemed to be immediate if it is made by us within two weeks of receipt of the delivery. We will notify the supplier of any defects that are discovered at a later date within two weeks of becoming aware of them.

Defects in the delivery or service reported during the warranty period must be remedied immediately and free of charge upon request, including all ancillary costs, at our discretion by rectification of defects or replacement delivery. These ancillary costs include, in particular, costs incurred in troubleshooting, the removal of a faulty part and the installation of a replacement item, as well as appraisal and transport costs.

If rectification or replacement delivery is not possible or unsuccessful, or if it is delayed or refused beyond a reasonable period set by us in writing, then we are entitled to statutory warranty rights. Claims for damages are expressly reserved. This also applies to claims for damages due to non-compliance. If the supplier culpably fails to fulfil its warranty obligation within a reasonable period set by us, we may take the necessary measures ourselves or have them taken by third parties at its own expense and risk – irrespective of its warranty obligation. In urgent cases, we may, after consultation with the supplier, carry out the rectification ourselves or have it carried out by a third party at its own expense and risk. If prior agreement with the supplier is not possible, we will immediately initiate the necessary measures and inform the supplier of this without delay. Minor defects can be remedied by us without prior agreement and without affecting the supplier's warranty obligation. We can then charge the supplier for the necessary expenses. The same applies if there is a risk of unusually high losses. The warranty period is two years and begins from the handover of the delivery item to us or to the third parties designated by us at the place of receipt or use prescribed by us. If acceptance is agreed, the warranty period begins on the date of our acceptance letter. If acceptance is delayed due to our fault, it shall end two years after the delivery item is made available for acceptance. The warranty period for replacement parts is two years after installation or commissioning and thus ends at the latest four years after delivery. From the date of receipt of the notification of defects, the limitation period shall be suspended until the supplier has declared to us that the defect has been eliminated or refuses to eliminate it. For repaired or replaced parts, the warranty period recommences

on the day of repair or return of the repaired parts or replacement delivery. If immediate rectification of defects is not possible due to our operating conditions, the supplier must immediately create a provisional improvement, insofar as this does not incur unreasonable additional costs. The final rectification of defects must be carried out as soon as the operating conditions allow us.

## 8. Liability

Insofar as the supplier's delivery or service is affected by errors, insofar as the supplier breaches contractual due diligence, care, information or other contractual secondary obligations or fails to comply with contractually agreed deadlines (breach of contract), it shall be liable to us for damages arising therefrom, without the need for further proof to this end than that of an objective breach of duty, the causal correlation with the occurring damage and the amount of damage.

Insofar as the supplier's liability in accordance with the statutory provisions depends on the supplier being responsible for the breach of contract, it may release itself from its liability by providing evidence of absence of fault. It is responsible for the fault of the vicarious agents and vicarious agents of the supplier as well as its upstream suppliers in the same way as its own fault. The supplier cannot release itself from its liability by proving the proper selection and monitoring of the vicarious agents or upstream suppliers.

Insofar as we are liable, the supplier shall indemnify us from all claims of third parties. The control of the quality of the goods by us has no influence on the liability of the supplier.

If a claim is made against us for a breach of official safety regulations or due to domestic or foreign product liability regulations or laws due to a fault in our product due to the goods from the supplier, then we are entitled to demand compensation from the supplier for this damage insofar as it is caused by the products supplied by the supplier. This damage also includes the costs of a precautionary product recall.

The supplier must provide sufficient liability insurance cover. The supplier shall insure itself appropriately against all risks arising from product liability, including product recall risk. Upon request, the supplier shall provide corresponding proof of insurance.

## 9. Infringement of intellectual property rights

The supplier shall indemnify us and our customers against claims by third parties arising from any infringements of intellectual property rights and shall also bear all costs incurred by us in this connection upon first request.

## 10. Shipping

Our shipping addresses are provided on the front of our order form. Costs incurred due to non-compliance shall be borne by the supplier.

Shipping takes place at the freely specified place of use. If, contrary to this, delivery ex-works or a delivery warehouse has been agreed, the sender assumes the obligation to select the most favourable freight method and the correct freight note declaration. The transport risk shall be borne exclusively by the supplier at the point of use upon delivery.

## 11. Invoices

Invoices must be properly issued in accordance with the applicable legal situation. In the case of inter-country deliveries within the EU, the VAT number of both contractual partners must be stated.

Invoices must be sent in duplicate upon delivery. In the case of deliveries from non-EU countries, invoices must also be enclosed in duplicate. Invoices must be issued to the company specified in the order.

#### **12. Payment terms, prices**

The price stated in our order is a capped and agreed fixed price. Any price increase requires our express written consent. If no price is specified in our order, the binding price specified by the supplier must be confirmed in writing by us.

The purchase price is payable after 60 days. This period starts after receipt of the delivery item, delivery note and invoice. If payment is made within 14 days after all requirements for the start of the period have been met, a 3% discount applies, whereby receipt of our transfer order at our bank is decisive for the period.

#### **13. Retention of title**

We will only accept retention of title until the relevant invoice for the delivery in question has been settled. An extended or augmented retention of title is also excluded without our express objection.

#### **14. Due diligence of the supplier for materials and documents**

Suppliers to whom goods, materials or documents are provided by us for the provision of services are liable for all consequential damages. Goods, materials and documents remain our property. We handle and process everything.

The NovaTaste Group may not be named as a reference without our express consent.

Should business and trade secrets be made available to the supplier in the course of the cooperation with us, the supplier shall undertake to maintain confidentiality. The supplier shall be liable for any damage arising from a breach of confidentiality.

In the event of a breach of the required confidentiality, a contractual penalty amounting to €50,000.00 shall be agreed, regardless of fault, which shall not be subject to the judicial mitigation.

#### **15. Place of fulfilment**

The place of fulfilment for delivery to us is the specified delivery address. If the specified delivery address is not used as the place of fulfilment, the site in Salzburg/A or Freilassing/D shall be deemed to be the place of fulfilment at our discretion.

The place of fulfilment for our payments shall be Salzburg/A or Freilassing/D at our discretion.

#### **16. Applicable law, place of jurisdiction**

In addition to these general contractual conditions, the statutory provisions of the Federal Republic of Germany apply under express exclusion of the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction shall be Traunstein if the supplier is a merchant within the meaning of Sections 1 et seqq. of the German Commercial Code (HGB).

#### **17. Data protection**

The processing of the purchaser's personal data is required to perform the contract concluded with the purchaser. NovaTaste processes the purchaser's contact, order and payment information. The basis for the processing is the contract concluded between the parties (Art. 6(1)(b)) of the EU's General Data Protection Regulation). Any further processing is carried out exclusively within the framework of the law or with the consent of the purchaser.

Details regarding the scope of the processing of the purchaser's personal data can be found in the general data protection information (Art. 12-14 GDPR) on our website [www.novataste.com/privacy-policy](http://www.novataste.com/privacy-policy).

#### **18. Partial ineffectiveness:**

Should any provision of our conditions of purchase be or become invalid for any reason, this shall not affect the validity of any other provisions. The invalid provisions shall be replaced by the provision which comes closest to them legally and economically.