



General Purchasing Terms and Conditions

Valid from 01.04.2007

Preamble

Adolf Darbo AG is a fruit-processing company that makes jams, jam-like products, syrups and fruit preparations. It also bottles honey.

1. Validity, contracting

These purchasing terms and conditions, exclusively, apply to all our orders including delivery by installments and additional shipments. Our suppliers' general terms and conditions of business are herewith explicitly rejected; sales terms and conditions contradicting our purchasing terms and conditions do not become part of the contract unless, in an individual case, the supplier expressly draws attention to such when confirming the order, and we then issue our written consent thereto. Acceptance of the merchandise does not count as such consent. Any possible recognition of deviating conditions on earlier contracts entered into has no relevance for this and future orders.

A contract to purchase comes into force with legal binding effect as soon as our order (in the form of our order confirmation form) is returned with the supplier's legally binding signature and arrives at our offices. If the order confirmation form is not sent back to us within five working days of the order having arrived, then the latter may be rejected by us as if it had been delayed. Even in the case of the order having been accepted by some means other than the return of our order confirmation form these purchasing terms and conditions apply, exclusively, unless something else has been agreed in writing.

These purchasing terms and conditions also apply to all follow-up orders placed on the supplier, including when the latter may, for the time being, have been placed face-to-face, over the telephone or by fax/e-mail and without explicit reference to the former.

The specifications and all other written declarations about the product submitted at Darbo's written request and attached to our order as an appendix count as a component of it and as agreed with the supplier. Orders are only legally binding if they are issued or confirmed in writing. The



supplier is under an obligation to question any factual/arithmetical errors or matters that may be unclear in our orders. Any change in the order placed must be confirmed by us in writing.

2. Prices

Unless something else has been agreed in writing all prices are fixed prices, including whatever packaging is necessary, based on the conditions of delivery agreed in each case in writing in accordance with whatever version of Incoterms is currently applicable.

3. Payment

Unless some differing conditions of payment have been agreed payments are made, at our option, either within 14 days of our receiving the invoice net of 3% cash discount or net after 30 days.

If the merchandise invoiced arrives later than the invoice, then the date of the arrival of the merchandise counts as the invoice date.

Payment may be held back until the contract has been completely and properly fulfilled. In so far as the supplier must, in accordance with statutory or contractual provisions, bear or reimburse costs, or if there are other counterclaims on our side, we may - at our option - withhold payments or set them off, whereby the necessities of coherence and pay ability are excluded by agreement.

4. Delivery time, self - supply

The delivery dates agreed are fixed deadlines within the meaning of §§ 919 of the Austrian Civil Code (Allgemeines Bürgerliches Gesetzbuch - ABGB). The supplier may not appeal to the defence of correct, complete and timely self-supply as long as any performance arising from the category owed is possible. In any such case it must obtain for itself merchandise of the same type and quality from other upstream suppliers. In the case of delayed delivery - even if the supplier is not at fault - it is open to us to dispense with the delivery wholly or partially and/or to demand compensation in damages on account of non-fulfillment, or to insist on delivery later; irrespective



of which the supplier must communicate with us immediately giving details of the reasons for, and the probable duration of the delay as soon as it has to accept it is unable to comply with the agreed delivery period or deadline. In accepting delayed deliveries we are not waiving our claims to reimbursement of losses incurred through delays. Interventions by public authorities and/or force majeure occurrences or other restrictions outside our control (such as factory interruptions and strikes) give us the right to withdraw, wholly or partially, from the contract or to demand its fulfillment at some later date without claims of any kind arising for the supplier from that.

4.1. Palletisation

In order to guarantee trouble-free storage in our fully-automated high-bay warehouse all frozen goods must be delivered only on Europe pallets measuring 120 x 80 cm and, at the most, 170 cm high (including the wooden pallet). All other packaging and raw materials must be delivered on Europe pallets measuring 120 x 80 cm and, at the most, 200 cm high. The pallets must be safely transportable and suitable for storage in a fully-automated high-bay warehouse. Costs that arise for us as a result of having to re-palletise merchandise that was not properly palletised are charged to the supplier.

4.2. Goods acceptance times

We only accept goods from 0700 to 1600 on Mondays to Thursdays (frozen goods from 0700 to 1400) and on Fridays from 0700 to 1100 (frozen goods from 0700 to 1000). Suppliers of frozen goods must advise us by fax of the probable times of their deliveries.

5. Shipping

All necessary accompanying documentation, such as delivery note, customs papers and veterinary certificates must be attached to each delivery. The supplier is liable for any increased transportation costs and damage to merchandise that arise from shipping arrangements not being properly made or packaging being inadequate or not in compliance with our order. The supplier is obliged to insure its merchandise during transportation at its expense.



6. Assignment, ownership

Neither the contract nor individual rights or claims arising from it may be transferred or pledged to third parties with our explicit consent. Excluded are forms of reservation of title other than simple supplier's reservation of title and assignment in advance of the demand for payment of the purchase price as part of whatever reservation of title is normally arranged in the sector. Contrary statements by the supplier on delivery notes, invoices or other documents are only legally-binding if we confirm them in writing. Acceptance of the merchandise does not constitute any recognition of a reservation of title declared by the supplier.

Any material handed over to a supplier, as part of a contract for delivery for the purposes of processing, remains our property.

7. Notice of defect and guarantee

The supplier promises and is responsible for ensuring that its consignment has the properties prescribed in the order and specification and in any of the other declarations made by the supplier at Darbo's written request and is not beset with errors or defects. The supplier promises, in particular, that the merchandise delivered matches up to the provisions of the relevant European and Austrian laws on foodstuffs in their current versions, and that it is of merchantable quality. The Austrian law covering foodstuff safety and consumer protection (Lebensmittelsicherheits- und Verbraucherschutzgesetz - LMSVG) counts among the relevant provisions.

The supplier is obliged to draw our attention, in writing, to any possible limitations on the use of the merchandise delivered. The same applies in relation to any possible duties of declaration with respect to products that are manufactured using the merchandise delivered.

The supplier may only change the composition of any merchandise subsequent to our having given our written approval in response to its notification of the change.

We may assert complaints on account of defective deliveries or deliveries that apparently deviate from the order within 14 days; The period of time allowed specified in the preceding sentence begins in the case of apparent defects when the merchandise is received, in other cases from the time when the defect is discovered.



In the case of a defective delivery or a delivery otherwise deviating from what was ordered we have, at our option - in addition to the rights to cancellation, price abatement or compensation in damages on account of non-fulfillment - the right to demand from the supplier free of charge rectification or free of charge fresh delivery within an appropriate period of grace set by us. In the case of failure to meet that deadline we may, without giving any further notice, place a replacement order with one or more third parties. We are under no obligation to tolerate more than one replacement performance or one attempt at rectification.

The period of guarantee is two years after the passage of risk. This is extended in the case of rectification by the duration of the downtime involved and begins afresh for the merchandise rectified and/or newly delivered. The existence of particular rights of recourse within the meaning of § 933 b of the Austrian Civil Code is deemed to have been expressly agreed. By accepting or approving of samples presented to us we do not waive claims under guarantee.

The supplier undertakes to indemnify and hold us harmless from all claims that our customers assert against us because the merchandise delivered to us by the supplier is defective or deviates otherwise from the order, the specification and/or any other written declarations made by the supplier and submitted at Darbo's written request.

8. Protection of industrial property rights

The supplier and its employees and representatives must preserve secrecy concerning our orders. All details, documents, materials, tools, lithos etc. that are sent and/or made known to the supplier for the manufacture of the goods must not be used by it for other purposes or be handed over to third parties. They remain, always, our property. For the eventuality that such documentation or articles are procured by the supplier, at our expense under special agreements, then the contracting parties agree here and now that such documents/articles pass directly into our ownership. The supplier holds such documents/articles for us with all due commercial care. Such documents must, on request, be handed over to us together with all copies that have been made of them. If it turns out that no delivery is ever made, then the supplier must hand the documents back to us without having to be asked to do so.

The supplier is liable for all the consequences arising from any possible infringements of patents,



utility models or other third party industrial property rights. It is obliged to indemnify us against all third party claims arising from any possible violation of rights and to reimburse us for any expenses that may have arisen. In the case of violation of third party rights we furthermore have the right to cancel all orders affected by that, to give back merchandise that has not yet been disposed of, and to demand compensation in damages.

9. Place of fulfillment, place of jurisdiction

Stans is the place of fulfillment. For both sides the court that is responsible for Stans is the place of jurisdiction for all legal disputes arising out of or in connection with this order. We, however, also have the right to take legal action against the supplier in any other jurisdiction. The law of the Republic of Austria applies. Application of the UN law on purchasing is ruled out.

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