

## General Purchasing Conditions

### 1. Conclusion of Contract

- 1.1 Our purchase orders are placed exclusively on the basis of the general terms and conditions set forth in these General Purchasing Conditions (including the Lindt & Sprüngli Group Supplier Code of Conduct). Any general business, sales, delivery or other conditions of the Supplier shall only form part of the agreement insofar as they have been accepted by us in writing.
- 1.2 Where the Supplier fails to provide express acceptance of the purchase order within 2 weeks of receipt thereof, we are entitled to revoke said purchase order.
- 1.3 Offers, orders, delivery confirmations and delivery schedules, as well as any changes or amendments thereto, must be made in writing. Oral agreements shall be deemed binding only upon written confirmation.
- Correspondence shall be conducted with the purchasing department that placed the order. Arrangements with other departments must be confirmed in writing by the purchasing department that placed the order insofar as provisions set forth in the contract shall be changed.
- 1.4 Irrespective of whether or not a purchase order is placed, no compensation or indemnification for site visits or for the preparation of offers, projects etc. shall be paid, unless otherwise agreed in writing.
- 1.5 Fulfillment of the purchase order or significant parts thereof by third parties requires our prior written consent.
- 1.6 References in these General Purchasing Conditions to the requirement of written form include the transmission of declarations of intent by facsimile, e-mail or machine-readable data media.

### 2. Prices, Shipping, Packaging

- 2.1 The agreed prices are fixed prices and are not subject to any change due to any increase in material or labor costs.
- Costs for freight and transport to the delivery address or other location as instructed by us are included in the agreed prices.
- In case of express delivery at our request, the difference between the costs for freight and for express delivery may be charged.
- All costs arising up to the point of the transfer to the freight carrier, including loading and cartage, shall be borne by the Supplier.
- In the event that the price has not yet been fixed at the time of placement of the order, we are to be informed of the price no later than at the time of confirmation of the order. Where no objection has been raised on our part within 8 working days, the price shall be deemed to have been approved.
- The agreement on the place of performance shall not be affected by the manner in which the price is determined.
- 2.2 Transfer of title and risk in accordance with the applicable Incoterms (DAP Incoterms 2010). Absent any other agreement, delivery shall take place at the risk of the Supplier. All risk of deterioration, including accidental loss, shall be borne by the Supplier until delivery at the delivery address or other location specified by us.
- Actual delivery shall in all cases be accompanied by a delivery note, in duplicate, indicating our purchase order number.
- 2.3 Transport package is included in the prices. We reserve the right to return the transport package and to request a credit to our account in return.

### 3. Invoicing and Payment

- 3.1 Each invoice is to be forwarded to us in a single copy, under separate cover, upon dispatch of the goods.
- The purchase order number and order date shall be stated on each invoice.
- 3.2 Payment shall be made, at our discretion, either within 14 days of delivery/service and receipt of invoice less a 3% cash discount, or within 30 days of delivery/service and receipt of invoice at the net amount.
- 3.3 In the event that delivery is made at a date earlier than the agreed date, we reserve the right to return the goods at the Supplier's expense. Where early deliveries are not returned, the goods shall be stored on our premises at the Supplier's risk and expense until the agreed delivery date.
- 3.4 The settlement of an invoice shall not be deemed to constitute a waiver of our right to notify defects to the invoiced goods.
- In the event of defective performance, we may rightfully withhold payment on a pro rata basis until such time as proper performance has been completed.
- 3.5 Without our prior written consent, the Supplier may not assign claims against us or charge third parties with their collection.
- 3.6 In case of packaging material defects the Supplier shall pay a penalty, in total at the maximum CHF 5'000 per delivery. In case of minor defects, we will grant a discount on the penalty in our full discretion. In addition to the penalty, the Supplier shall be fully liable for our damages resulting from packaging defects.

### 4. Delivery Dates, Delays in Delivery, Force Majeure

- 4.1 The agreed dates are binding. Decisive for compliance with the delivery date or delivery period is the date of receipt of the goods at the location named by us, or the date of their acceptance.
- 4.2 In the event that the Supplier becomes aware that, for whatever reason, it will not be able to comply with the agreed dates, the Supplier shall immediately inform us in writing, stating the reasons for and the length of the delay.
- 4.3 In the event of late delivery, the Supplier shall be liable to us for all direct and indirect and/or consequential damages resulting from the delay. Acceptance of the late delivery or service shall not constitute a waiver of the right to claim damages.
- 4.4 In the event of a failure to comply with the agreed dates due to circumstances for which we are not responsible, we are entitled, without prejudice to any further legal rights, and without granting a period of grace, to choose at our discretion (a) to demand specific performance along with the damages arising from the delay, or (b) to waive subsequent performance and either claim compensation for the damages arising out of non-performance or withdraw from the contract and claim the damages arising out of the withdrawal from the contract.
- 4.5 Instances of force majeure, such as labor disputes and other unforeseeable, unavoidable events of serious consequence, release a party from its duties to perform for the duration of the disruption and to the extent of its effects. Each party to the contract undertakes to inform the other without delay and insofar as may reasonably be expected, and to adapt in good faith the performance of its duties to the changed circumstances.

We shall be released from the obligation to accept the delivery/service ordered, and may rightfully rescind the contract where, as a result of delays due to force majeure, our acceptance of the delivery/service is, from an economic point of view, no longer reasonable for us. We accept partial delivery only where it has been expressly agreed. Where partial shipments have been agreed, the quantity remaining is to be specified by the Supplier.

### 5. Warranty

- 5.1 The Supplier represents and warrants that all goods delivered and services performed shall reflect the current state of the art, and be in compliance with the agreed specifications, the relevant legal provisions, and the regulations of trade associations and other organizations. The Supplier represents and warrants that all technical equipment and materials in contact with goods comply with the required food safety and conformity requirements.
- 5.2 We shall examine the deliveries/services as expeditiously as possible after receipt, but are under no obligation to respect a fixed time limit. The time limits and duties of the buyer pursuant to Art. 201 CO are expressly waived. We are entitled to notify defects at any time after discovery thereof up to the expiry of the warranty period.
- 5.3 Defects to deliveries/services notified during the warranty period, including failure to fulfill guaranteed specifications and the lack of warranted characteristics, are to be remedied by the Supplier upon request, without delay and at no additional cost, including ancillary expenses, at our discretion through repair or replacement of the defective items. Defects shall be remedied without delay.

Other rights, in particular, the rights to claim for rescission, reduction of the purchase price, replacement and/or damages, shall remain reserved.



5.4 Where the Supplier fails to meet its warranty obligation through repair or replacement of the defective items within a reasonable period as set by us, we may take the necessary steps ourselves or through a third party, at the Supplier's cost and risk, and without prejudice to the Supplier's warranty obligation.

5.5 The warranty period is 12 months, unless expressly agreed otherwise.

The warranty period commences with the transfer of the goods to us or to the third party specified by us at the location instructed by us.

The warranty period for spare parts is 1 year from the date the spare parts were brought into service and ends no later than 2 years after delivery.

5.6 The Supplier shall, at our first request, defend, indemnify, and hold us harmless from any and all third party claims arising from the breach of safety guidelines or applicable laws, or from domestic or foreign product liability regulations, in connection with the Supplier's delivery or service. This applies also in the event of claims against us arising out of defects in our products, where these are attributable to the delivery or performance of the Supplier. The Supplier shall further indemnify us for any legal expenses incurred by us in connection therewith, including court costs, costs of proceedings and attorney's fees. This shall occur without prejudice to any further damage claims to which we may be entitled.

The Supplier's duty to defend, indemnify and hold us harmless also includes liability for any costs and expenses that may incur as a result of or in connection with a product recall executed by us.

5.7 The Supplier undertakes, for the duration of the contract to maintain a liability insurance for its deliveries/services to secure the claims arising out of this contract, which shall also include coverage of the costs of any product recall, whereby the insurance coverage shall be, per occurrence, not less than CHF 5 million for personal injuries and not less than CHF 10 million for property damages. The Supplier shall, upon our request, provide documentation of the existence of such insurance and of payment of the insurance premiums.

5.8 The Supplier warrants that no intellectual property rights or other third party rights shall be infringed by the performance or use of its deliveries or services. In the event that such rights are infringed, the Supplier shall, at our first request, indemnify and hold us fully harmless from and against all claims made or threatened against us. The Supplier shall further indemnify us for any legal expenses incurred by us in connection therewith, including court costs, costs of proceedings and attorney's fees. This shall occur without prejudice to any further damage claims to which we may be entitled.

## 6 Documentation and Information

6.1 Title and all intellectual property rights to all documentation and information, including blueprints, sketches, calculations, samples, drawings, models, recipes etc., which we may hand over or notify to the Supplier, re- main with us. The Supplier shall store such documentation and information in a safe place, shall not make any modifications to it and may make use of it solely for the purpose of fulfilling our purchase order.

6.2 The Supplier may not, without our prior written consent, provide deliveries or services to third parties based on this documentation and information, nor may it copy, reproduce or make this documentation and information available to third parties not directly entrusted by the Supplier with carrying out work in connection with our order, and who are not subject to restrictions equivalent to, at least, those set forth herein.

6.3 The Supplier shall return this documentation and information to us at any time upon our first request, however, even if not requested, no later than upon the accomplishment of its delivery or service.

6.4 The Supplier shall provide a food regulatory conformity declaration for all technical equipment and materials in contact with goods with each delivery. The Supplier shall provide further documentation and information confirming the compliance with legal requirements and our requirements upon our first demand.

6.5 In case of goods wholly or partly with preference authorization, the Supplier shall provide a preference certificate of origin upon our first demand. In the case of a delivery within the same economic territory, upon our first demand the Supplier shall provide with the goods a valid supplier's declaration regarding preference authorization pursuant to the requirements of such economic territory. In the case of a delivery outside an economic territory, upon our first demand the Supplier shall provide a valid origin declaration on the invoice or the original of the movement certificate pursuant to the treaty between the departure and destination country.

6.6 Duties pursuant to this Section 6 are not subject to any time limitation.

## 7 Data Protection

7.1 We are entitled to process personal data relating to the Supplier in connection with the handling of the purchase order. Such processing of personal data may in particular include the transfer of personal data to third parties located in Switzerland or countries outside the European Economic Area, which may not have an adequate level of data protection. To the extent necessary to comply with applicable legal requirements, we will ensure the protection of personal data by means of standard contractual clauses for the transfer of personal data to third countries

7.2 The Supplier undertakes to observe and implement the provisions of Swiss data protection law and, where applicable, the EU General Data Protection Regulation (GDPR). The supplier undertakes to process personal data only for the purpose of processing the order. If the Supplier processes personal data from us as part of its performance, the Supplier shall conclude a data processing agreement with us for this purpose and provide us with all the information required to comply with all applicable obligations.

## 8 General Provisions

8.1 In the event that individual parts of these General Purchasing Conditions prove to be legally invalid, this shall not affect the validity of the remaining provisions.

The contracting parties undertake in good faith, within the limits of what is reasonable, to replace any invalid provision with a provision that achieves an economically equivalent result, provided that this does not cause any substantial change of the terms of the contract.

8.2 The Supplier undertakes to treat as confidential all commercial or technical information not belonging to the public domain that is disclosed to the Supplier in the course of the business relationship, and to not provide access thereto to third parties. The Supplier shall oblige its subcontractors respectively.

The Supplier may refer to its business relationship with us in advertising material or other documentation only after obtaining our prior written consent.

Publications concerning the subject matter of the purchase order are permitted only with our prior written consent.

8.3 The Supplier undertakes to comply with the provisions of the Lindt & Sprüngli Group Supplier Code of Conduct, which constitutes an integral part both of these General Purchasing Conditions and of the supplier contract. Any breach of this duty on the part of the Supplier entitles us, without prejudice to any other claims, to rescind a purchase order or to terminate the contract with the Supplier. The Lindt & Sprüngli Group Supplier Code of Conduct is available online for download: [https://www.lindt-spruengli.com/fileadmin/user\\_upload/corporate/user\\_upload/Sustainably/SupplierCode\\_ofConduct\\_EN\\_final\\_1806\\_rgb.pdf](https://www.lindt-spruengli.com/fileadmin/user_upload/corporate/user_upload/Sustainably/SupplierCode_ofConduct_EN_final_1806_rgb.pdf)

8.4 Unless expressly agreed otherwise, the place of performance for deliveries is at the delivery address or other location specified by us; for all other obligations of both parties, the place of performance is the corporate domicile of Chocoladefabriken Lindt & Sprüngli (Schweiz) AG.

8.5 These General Purchasing Conditions shall enter into full force and effect on July 1<sup>st</sup> 2020. We reserve the right to introduce amendments to these General Purchasing Conditions, including the Lindt & Sprüngli Group Supplier Code of Conduct, at any time. These shall be notified to the Supplier in writing or by other appropriate means and shall be deemed to have been accepted unless objection is raised within one month of the date of notification of any amendment.

**8.6 The courts of the city of Zurich (city district no. 1) shall have exclusive jurisdiction for all disputes between the contract parties. This notwithstanding, we are entitled to bring action against the Supplier at its place of domicile or at the place of performance.**

8.7 All legal relationships between us and the Supplier are governed by Swiss law. Application of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Sales Convention) is excluded.

## 9 Definitions

As used herein, the following words have the meanings ascribed to them below:

“Supplier” refers to you, our supplier, in accordance with the details mentioned on our purchase order.

“we”, “us” and “our” refer to Chocoladefabriken Lindt & Sprüngli (Schweiz) AG and, insofar as required by the circumstances, any company belonging to the Lindt & Sprüngli group.