

Terms and Conditions for the Purchase and Delivery of Goods
of MARESI Foodbroker SRL

1. General Provisions / Scope of Application

- 1.1. These Terms and Conditions for the Purchase and Delivery of Goods (hereinafter "Terms") are applicable to all contracts executed by MARESI Foodbroker SRL and third parties in respect of supplies and the provision of other services, unless expressly otherwise stated herein. Amendments and modifications as well as the supplier's terms and conditions that deviate from these Terms shall be deemed to have been accepted by MARESI only if MARESI has confirmed these in writing by way of an addendum to these Terms. By accepting or making payment for the supplies and services, MARESI shall not be deemed to have agreed with the supplier's terms of sale.
- 1.2. MARESI shall be deemed to have accepted deviating terms and conditions of the supplier of whatever form, including but not limited to those in derogation of terms and conditions stated in the quote or the supplier's acknowledgment of order only if MARESI has expressly acknowledged these terms in writing.
- 1.3. These Terms and Conditions for the Purchase and Delivery of Goods continue to be valid for all further orders even without any particular reference thereto, until they are amended.
- 1.4. It is explicitly agreed that MARESI'S silence shall not have any explanatory value and shall not be deemed to represent any acknowledgment of the supplier's standard terms and conditions.
- 1.5. The supplier acknowledges that MARESI employees or third parties may not issue any commitments whatsoever (including but not limited to side agreements, reservations, changes or modifications) for and on behalf of MARESI. These commitments are valid only if they were approved by MARESI in writing.
- 1.6. MARESI may correct manifest errors (spelling mistakes and arithmetical errors, typos) contained in documents at any time.

2. Quotes, Samples

- 2.1. Quotes submitted by suppliers shall be free of charge for MARESI and do not create any obligation whatsoever, even if quotes were submitted on MARESI'S request or demand.
- 2.2. When submitting its quotes, the supplier shall strictly stick to MARESI'S inquiry and explicitly point out any deviations. Offer materials will not be returned. Samples shall always be made available to MARESI free of charge.

3. Purchase Order

- 3.1. Purchase orders, contracts and any amendments and modifications thereof must be made in writing (fax, EDI or e-mail is sufficient). Purchase orders that were placed orally or by phone as well as amendments and modifications of orders are valid only if MARESI has expressly confirmed these in writing.
- 3.2. MARESI retains title to all documents that were sent in connection with the submission of quotes or purchase orders or inquiries (such as contracts, specifications, plans, samples, recipes, printed matter etc), and these documents may neither be reproduced nor made available to third parties without MARESI'S prior written consent. They may be reclaimed at any time and shall promptly be returned to MARESI if an order is not placed, if an order is placed with another supplier or after an order was executed.
- 3.3. All documents of the supplier must contain the corresponding order numbers and the MARESI department placing the order. Any deliveries, notices, invoices etc. not containing that information shall not be deemed to have been received.

4. Prices

- 4.1. The agreed prices are fixed prices, excluding VAT, containing all supplier expenses in connection with the performance of the supplies and services. Supplier's included expenses include, but are not limited to, all costs for transport, insurance, packaging, taxes, customs duties, and levies relating to supplier's deliveries and services. MARESI will pay only those costs which the purchase order

explicitly defines as being payable by MARESI. Extensions and modifications of orders and orders of spare parts are governed by the terms and conditions of the main order. Except in case of goods intended to be resold by MARESI, the supplier is generally responsible to recover waste packaging. In those cases, the prices agreed with the supplier on the basis of the packaging ordinance shall apply.

5. Invoices, Terms of Payment

- 5.1. Invoices containing MARESI'S order number and the order date shall be sent by post after receipt of the goods. If agreed at the order date, invoices can also be sent via electronic data exchange or electronically (in PDF format). Copies of invoices and partial invoices shall expressly be marked as such. Statutory value-added tax must be separately stated in invoices. Both parties' VAT numbers must be stated in case of inter-state deliveries within the EU. All invoices must fully correspond to the legal provisions of the Austrian Value Added Tax Act (including but not limited to Section 11 of that Act). MARESI reserves the right to process only invoices which fulfil the above requirements.
- 5.2. Unless otherwise agreed in writing, invoices are paid at MARESI'S election either within
 - 30 days with a 3% cash discount or
 - 45 days with a 2% cash discount or
 - 90 days net without discount.
- 5.3. The time for payment starts to run once MARESI has received the invoice and the goods.
- 5.4. Invoices containing factual or arithmetical errors or mistakes do not trigger any maturity until they were corrected in agreement with MARESI, and MARESI may return these invoices within the time for payment if they contain irregularities. In that case, the time for payment starts to run only with receipt of the corrected invoice. In case of faulty services, MARESI may withhold the payment until the services were fully and properly provided without losing its right to rebates, cash discounts or similar payment benefits.
- 5.5. MARESI can make payments either by check or bank transfer. Payments made to an Austrian bank along with the simultaneous order to transfer the amount to the supplier shall be deemed to be payment to the supplier.
- 5.6. The supplier shall pay all bank charges within the EU. The parties will share all bank charges accruing outside the European Union.
- 5.7. MARESI may set off its own liabilities towards and receivables from the supplier against the supplier's receivables from MARESI even if MARESI'S receivable from the supplier is not yet due.
- 5.8. The supplier may not set off its own liabilities towards MARESI against its receivables from MARESI.
- 5.9. Claims arising from deliveries and services provided to MARESI may not be assigned or subject to factoring, except with MARESI'S written consent.
- 5.10. Any payment made by MARESI does not simultaneously mean that MARESI acknowledges the proper nature of the delivery and therefore does not affect any claims which MARESI may be entitled to recover from the supplier from the performance of the contract (such as rights in respect of warranty, guarantee and damages).

6. Delivery, Shipment, Packaging

- 6.1. Execution, content (date or period of delivery and defined place of delivery), scope of a delivery and its division into partial deliveries must correspond to the order and the requirements of MARESI. Deviations from the above are permitted only with MARESI'S prior written consent.
- 6.2. All deliveries must be accompanied by a completed delivery note which contains precise order details.
- 6.3. If partial deliveries or deliveries of residual goods or samples are allowed, those deliveries must be marked accordingly.
- 6.4. MARESI will take over delivered goods only in customary and proper packaging, shipped according to MARESI'S shipping instructions (according to MARESI'S logistics manual).

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- 6.5. Unless otherwise agreed in writing, goods must be delivered in standardised reusable Euro pallets, which shall be returned or exchanged at the supplier's cost and risk. The supplier undertakes to properly pay the accruing license fees. Should MARESI or its customers or connected purchasers dispose of the transport packaging, the supplier undertakes to pay a corresponding compensation for the disposal costs. The supplier may at its election participate in any other suitable disposal scheme. In this event, no compensation is payable.
 - 6.6. Weight and number of the supplied goods are determined by MARESI.
 - 6.7. The supplier is required to timely and properly submit movement certificates, properly issued certificates of origin, if necessary, other product certificates and documents in compliance with Austrian laws and regulations (including but not limited to EU regulations and EU directives). The supplier shall hold harmless and indemnify MARESI for and against any damage arising from non-compliance with the shipping instructions and/or its failure to properly submit the above certificates and documents.
 - 6.8. The supplier shall observe the rules and regulations specifically applicable to the respective order (ÖNORMEN, DIN standards, etc).
 - 6.9. Goods marked with minimum shelf life dates or consumption dates must be delivered by the supplier in good time, so that at least the customary or expressly agreed residual period for use is available at the agreed destination.
 - 6.10. C.O.D. consignments will not be accepted.
- 7. Delivery Period**
- 7.1. Agreed target dates and time limits are binding.
 - 7.2. The delivery period commences with the date stated on MARESI'S order.
 - 7.3. As soon as the supplier realizes that it cannot observe the agreed time limits and target dates, it shall promptly notify MARESI in writing and indicate the reasons for and the expected length of the delay. The supplier shall take all appropriate measures at its own cost and expense to minimise delays and inform MARESI thereof in writing. In this case, MARESI'S right to withdraw from the entire or parts of the contract shall not be affected.
 - 7.4. In case of the supplier's default, MARESI may either insist on performance of the contract and compensation of damage caused by such delay, or it may withdraw from the contract without granting of a reasonable grace period and recover damages for non-performance. MARESI may then make cover purchases at the supplier's cost.
- 8. Penalty Payments**
- 8.1. If the supplier does not fulfil its obligations, the supplier shall pay MARESI a no-fault penalty in the amount of EUR 5,000 for each breach. MARESI is entitled to claim also additional damages.
- 9. Transfer of Risk, Transfer of Title**
- 9.1. The transfer of risk is governed by the Incoterms 2010.
 - 9.2. Title and risk in respect of the delivered goods will transfer to MARESI concurrently with the actual and proper supply of the goods, provided that MARESI has accepted those goods. MARESI will not acknowledge under any circumstances any reservation of title whatsoever (e.g. extended reservation of title with prior assignment, reservation of title to the goods until all claims from the business relationships are settled [*Kontokorrentvorbehalt*] or reservation of title until all claims belonging to the goods' owners' group of companies have been settled [*Konzernvorbehalt*]), retention rights and collateral ownership.
- 10. Production Resources and Documents**
- 10.1. MARESI shall remain exclusive proprietor and may freely dispose of any production resources and documents which MARESI makes available to the supplier.
 - 10.2. The supplier shall use the production resources and documents owned by MARESI only for the execution of MARESI'S orders and shall carefully store, maintain, repair, replace in case of wear and tear, and insure these against any damage at its own cost and expense.
 - 10.3. The production resources and documents owned by MARESI must be kept strictly confidential and may neither be made accessible or available to external or third parties or used for any purpose other than the agreed purpose, except with MARESI's written consent. As soon as these items are no longer needed for the execution of the order, they shall be returned to MARESI at the supplier's cost and risk after the respective shipment was processed.
 - 10.4. This shall apply also to production resources or documents which are made available to the supplier to prepare its bid. All these resources and documents must then be fully returned along with the prepared bid.
- 11. Warranty**
- 11.1. The supplier warrants that the supplies and services executed according to the terms of the contract have the characteristics expressly specified or otherwise guaranteed or to be generally expected, and correspond to pertinent rules and regulations, including but not limited to provisions applicable within the European Union.
 - 11.2. Furthermore, the supplier warrants that its supply or service is fit for the specific needs, corresponds to the mentioned product specifications and to the information contained in instructions for use, prospectuses etc.
 - 11.3. The warranty period is 24 months from the legally effective and actual takeover of the goods.
 - 11.4. The supplier's warranty period covers all goods supplied by it, even if these goods or parts thereof were not produced by the supplier itself. This time limit will begin again after the remediation of defects and after every attempted corrective action by the supplier. The warranty period will be interrupted by every written complaint.
 - 11.5. Should a product be defective, MARESI may at its election either insist on delivery of a replacement, corrective action, reduction of the purchase price or claim damages in lieu of corrective action, even if the defects are only minor in nature. MARESI may withdraw from the contract if the supplier does not or not properly supply a substitute product, take corrective action, reduce the purchase price or pay damages within the time limit set.
 - 11.6. The supplier waives its right to plead failure to give timely notice of defects. The obligation to notify defects pursuant to Sections 377 et seq of the Austrian Commercial Code (*UGB*) is hereby expressly contracted out. Defects can be notified at any time until the end of the warranty or guarantee period.
 - 11.7. In urgent cases, in cases of imminent danger, if the supplier refuses to take corrective action and/or to supply a substitute product, MARESI may procure corrective action at the supplier's cost and expense, notwithstanding the supplier's continued liability.
 - 11.8. If a defect is due to a circumstance for which the supplier is responsible or if the delivered goods lack a warranted characteristic, the supplier shall also be liable for consequential damage caused by the use of its product or work. The supplier will fully hold harmless and indemnify MARESI for and against resulting claims of third parties.
 - 11.9. Corrective action shall be taken promptly after MARESI'S request. If necessary, corrective action shall be taken - subject to labour laws - in multi-shift operations by overtime or work on Sundays or public holidays.
 - 11.10. If the supplier has failed to rectify a defect twice, MARESI may procure corrective action by third parties at the supplier's cost and expense.
 - 11.11. If, despite the supply of substitute products, the same or different parts of the supplied products are defective again, the supplier shall be obliged to take adequate measures to eliminate also the cause of these defects, for example by introducing changes in manufacturing processes, the composition of goods etc.
 - 11.12. The supplier guarantees in connection with the supply of foodstuffs, additives and other substances for food production and in respect of packaging materials that come into contact with food during processing and packaging,

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that these correspond with applicable Austrian laws and European provisions, including but not limited to food law provisions and other related ordinances, applicable on the product delivery date. Furthermore, the supplier guarantees that the delivered goods neither are nor contain genetically modified organisms nor were made from genetically modified organisms.

- 11.13. The supplier warrants that the supplied goods are microbiologically safe and do not contain any prohibited or physiologically dangerous substances and/or no declarable substances that have not been declared.
- 11.14. The supplier warrants the supplies correspond to their labelling.
- 11.15. The supplier warrants that the supplied goods do not contain additives or concomitants other than those which are technically unavoidable.
- 11.16. At MARESI'S request, the supplier shall provide corresponding certificates and supporting documents.

12. Product Liability

- 12.1. The supplier undertakes to hold harmless and indemnify MARESI in case MARESI is held liable by a customer or other third parties, provided that the damage was caused by shortcomings of the goods for which the supplier or its pre-suppliers etc. are responsible. The supplier undertakes to make available to MARESI any information which is conducive for supplying a defect-free product (risk notices, authorization regulations etc). Should the supplier later become aware of circumstances which could give rise to a product defect as defined in the Product Liability Act, the supplier undertakes to report these circumstances to MARESI immediately. There shall not apply any limitations whatsoever regarding the supplier's obligations pursuant to the Product Liability Act and any limitations whatsoever regarding the supplier's right to compensation pursuant to that Act or other provisions.
- 12.2. MARESI may return goods the purchase or use thereof, according to public warnings, was criticised by authorities to represent health or safety risks. These goods may be returned within one month after the public warning, and the supplier shall be obliged to hold harmless and indemnify MARESI for and against all resulting expenses.

13. Property Rights, Liability

- 13.1. The supplier shall hold harmless and indemnify MARESI in Austria and abroad for and against any disputes arising in respect of the delivered goods or their use, including but not limited to patents, trademarks, designs, copyrights or other property rights of third parties.
- 13.2. Within the limits prescribed by law, the supplier is unrestrictedly liable for both its own fault and pursuant to Sections 1313a and 1315 of the Austrian Civil Code for any fault on the part of its vicarious agents.
- 13.3. MARESI shall be liable to the supplier only in case of intent, unless mandatory laws stipulate more extensive liability.
- 13.4. The supplier shall hold harmless and indemnify MARESI for and against all claims asserted by third parties on the basis of shortcomings of the supplier's goods. The supplier undertakes to provide MARESI with any information which is necessary for MARESI to defend claims asserted by third parties and, at MARESI'S request, to join the proceedings as third-party intervenor.

14. Work Results

- 14.1. MARESI may publish all or any parts of the supplier's work results if those were created solely for MARESI. The supplier may publish and use such work results for third parties only with MARESI'S prior consent.

15. Force Majeure

- 15.1. If any event of force majeure such as labour disputes, operational breakdowns for which the parties are not responsible, unrests and other inevitable events occur and result in defaults, neither MARESI nor the supplier are entitled to assert any claims whatsoever.

- 15.2. Should events of force majeure result in any restrictions or the discontinuation of MARESI's production activities or prevent the transport of the goods or of products produced by MARESI to the customers, MARESI is not obliged to accept and pay for those goods throughout the length and within the scope of such default. In those cases, the supplier will properly store the goods at its own cost and risk, if necessary, until the goods are taken over by MARESI or its customers.
- 15.3. Target dates and time limits which could not be observed due to the occurrence of events of force majeure will be extended as long as the effects of force majeure prevail.
- 15.4. In cases of force majeure, the supplier shall use all endeavours to eliminate or alleviate the difficulties and any conceivable damage and to keep MARESI posted thereof on a continuous basis.
- 15.5. MARESI may withdraw from all or any part of the contract if an event of force majeure prevails for more than 4 weeks.

16. Assignment, Pledging

- 16.1. The supplier may neither assign nor pledge rights to third parties (with particular reference to Section 5.8), except with MARESI'S written consent.

17. Confidentiality

- 17.1. The order and any related information, documents etc. represent MARESI's business secrets and shall be kept confidential.
- 17.2. The order may not be used for promotional purposes.
- 17.3. The parties agree that any breach of this confidentiality obligation shall trigger a no-fault penalty in the amount of €50,000 which cannot be reduced by court order.

18. Severability

- 18.1. Should any provision of these Terms or of other contractual agreements be or become invalid or unenforceable, this shall not affect the validity of the remaining terms hereof. The parties shall be obliged to replace an invalid or unenforceable term by a valid or enforceable term that closest reflects the economic purpose of the invalid or unenforceable term.

19. Employee Benefits

- 19.1. Supplier may not offer, promise or grant any benefits to MARESI employees. MARESI therefore reserves the right to recover compensation for damage and to terminate the business relationship by extraordinary notice.

20. Written Form

- 20.1. Amendments of and modifications to these Terms and Conditions for the Purchase and Delivery of Goods and of other contractual agreements shall be made in writing to be effective. The same shall apply to any waiver of this written form requirement.

21. Place of Performance, Place of Jurisdiction

- 21.1. Place of performance shall be the place to which the goods shall be delivered according to the order or the place at which the services shall be provided.
- 21.2. Place of jurisdiction for all mutual claims shall be Vienna. MARESI reserves the right to inform the supplier of any other legal place of jurisdiction.

22. Governing Law

- 22.1. The legal relationships between MARESI and the supplier shall exclusively be governed by and construed in accordance with Austrian substantive law, to the exclusion of its conflict of law rules. The parties expressly rule out the application of the UN Sales Convention even if the supplier is domiciled outside the territory of the Republic of Austria.

23. Up-to-datedness

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23.1. These Terms and Conditions for the Purchase and Delivery of Goods, as amended from time to time, are available at <http://www.maresifoodbroker.com/rou/ro/terms>.