

Standard purchasing terms and conditions of Bahlsen GmbH & Co. KG (Germany)

§ 1 General – scope of application

- (1) Our purchasing terms and conditions will apply to the exclusion of other terms and conditions. Contrary, supplementary terms and conditions or terms and conditions that differ from our own will only become part of the contract provided that we have expressly consented in writing to their application. Our purchasing terms and conditions will also apply should we accept the Supplier's delivery without qualification in spite of being aware that the Supplier's terms and conditions are contrary to or differ from our own. Should the Supplier not be in agreement with the above provision, he is required to object immediately and expressly in a separate letter. In this case, we reserve the right to withdraw the order without the possibility that any claims whatsoever can be lodged against us.
- (2) Any individual agreements, including any amendments, that may be concluded between ourselves and the Supplier in individual cases in order to carry out this contract will under all circumstances have precedence over these standard purchasing terms and conditions. The contents of such agreements will be governed by a written contract or our written confirmation.
- (3) Declarations and notices with legal relevance that the Supplier is required to submit after the contract has been concluded (e.g. setting of deadlines, reminders, notice of rescission) must be in text form in order to be valid.
- (4) Our purchasing terms and conditions apply only to companies within the meaning of § 14 of the German Civil Code ("BGB") as well as to public law legal entities and public-law special assets. The latest version of the purchasing terms and conditions is also valid as a framework agreement in future contracts with the same Supplier without our having to refer to it in each individual case; the latest version of the purchasing terms and conditions may be referred to under <https://www.bahlsengroup.com/de/download/>.
- (5) References to the application of provisions of the law are only intended to provide clarification. Even without such clarification, the provisions of the law will apply unless specifically amended or expressly excluded in these purchasing terms and conditions.

§ 2 Quotations – documents accompanying quotations

- (1) Our order will not be considered binding until submitted or confirmed in writing at the earliest. The Supplier is required to draw our attention to obvious errors (e.g. textual and arithmetic errors) and omissions prior to acceptance in order that corrections may be made and omissions remedied; otherwise the contract will be deemed not to have been concluded.
- (2) The Supplier is required to confirm our order in writing within 10 working days. Delay in acceptance will be considered a new quotation and requires our acceptance.
- (3) Should printed documents be submitted, it is absolutely necessary that a copy for purposes of correction is enclosed and that this is approved by the client. Should corrections be necessary, the corrected copy must be re-submitted and approved.
- (4) We are entitled to terminate the contract at any time in writing stating the reason, should we no longer have any use for the products ordered in our business operations due to circumstances occurring after the contract has been concluded. In this case, we will pay the Supplier for any part-shipment delivered.

§ 3 Prices – payment conditions

- (1) The price stated in the order is binding and in the absence of any agreement to the contrary includes delivery free of charge, including any packaging that may be required. The Supplier is required to collect non-returnable packaging at his expense if requested to do so.
- (2) All prices are to be understood as inclusive of value added tax stipulated by law (VAT), should this not be reported separately. Unless anything to the contrary is stated in the individual case, the price includes all the Supplier's services and ancillary services as well as all ancillary costs.
- (3) In order to avoid delays in payments, we draw attention to the fact that every invoice must comply with the mandatory conditions of § 15 paragraph 4 of the German Law on VAT, such as for example the separate reporting of the VAT stipulated by law. Otherwise payment or the deduction of input VAT from the invoice amount is not possible. We will not be in arrears with our payments in such cases.
- (4) Invoices must be sent separately. We are only able to process invoices provided that - in accordance with the requirements of our order - they include the order number stated in the order; the Supplier is

responsible for any consequences resulting from a failure to comply with this obligation, such as delayed payments for example, unless he is able to prove that this was not his fault.

- (5) The agreed price is payable within 30 calendar days of the complete delivery and service (including any acceptance that might have been agreed) as well as receipt of a correct invoice. The Supplier will grant us a cash discount of 3% on the net amount of the invoice should we pay within 14 days.
- (6) We will not be liable for any interest after the due date. The interest rate on arrears is 5 % p.a. above base rate. Any arrears on our part will be governed by the provisions of the law, whereby, contrary to the law, this will in any event require a written reminder from the Supplier.
- (7) We are entitled to net our counter-claims and to withhold payment as well as to invoke a plea of non-performance of the contract to the extent provided for in law. We are entitled in particular to withhold payments due as long as we are entitled to claims against the Supplier on account of incomplete or defective services.
- (8) The Supplier is only entitled to net counter-claims and to withhold his services on account of counter-claims that have been established in law or are undisputed.

§ 4 Delivery period

- (1) The delivery period stated in the order is binding. The delivery period is four weeks from the conclusion of the contract should it not be stated in the order and also not have been agreed otherwise.
- (2) The delivery period will have been complied with should the goods to be delivered have arrived at the reception point stated by us before this period expired or, should delivery not be made at our request, we receive notice that the goods are ready to be delivered before the delivery period expires.
- (3) The Supplier is required to notify us immediately in writing should circumstances occur or be identified as a result of which the stated delivery period cannot be met.
- (4) The Supplier may only make use of part-shipments provided that we have given our express consent in writing prior to the delivery.
- (5) Our rights will be governed by the provisions of the law should the Supplier fail to provide his service or fail to provide it within the agreed delivery period or should he be in arrears. In particular, instead of delivery, we will be entitled to demand compensation and cancellation after a reasonable grace period has expired without the desired result. Should the Supplier be in arrears, we may demand, in addition to any further legal claims, lump-sum compensation for our costs incurred on account of arrears equal to 1% of the net price for each complete calendar week, subject to a maximum of 5% of the net price of the goods delivered late. We reserve the right to prove that we have incurred higher damages. The Supplier is also entitled to prove that we did not incur any damage or that our damage was considerably lower.

§ 5 Delivery conditions

- (1) Unless anything different has been agreed in writing, delivery must be made free of charge to the reception point we stipulate. The relevant destination is also the place of fulfilment (obligation to fulfil).
- (2) The risk of accidental destruction or deterioration will pass to us at the time the goods arrive and are handed over at the stipulated destination. Should acceptance have been agreed, this will govern the time that risk is transferred. The provisions of the law applicable to manufacturing contracts will also apply in the event of acceptance. Delay in acceptance on our part will not affect transfer of the goods or acceptance.
- (3) Delays in acceptance will be governed by the provisions of the law. The Supplier must also expressly offer us his service when a specific or determinable period of time has been agreed for an action or cooperation on our part (e.g. provisions of materials). The Supplier may demand compensation or the reimbursement of additional expenses incurred in accordance with the provisions of the law should we delay acceptance. Should the contract relate to unique goods that are to be manufactured (custom-made item) by the Supplier, he will only be entitled to additional rights should we have undertaken to cooperate and are responsible for the lack of cooperation.
- (4) We will conclude our own transport insurance cover for goods we have ordered.
- (5) Every delivery must be accompanied by a delivery note stating our order number, the name of the department, the number of units, an exact description of the goods and the individual weights or dimensions. We will not be liable for any resulting delays in processing or payment should the delivery note not be enclosed or be incomplete. In the case of raw materials and primary packaging supplies every package must display a lot number. This must also be identifiable in the delivery note. The Supplier will send us notice of dispatch on the day that the goods leave the Supplier. The order number must be stated on all freight documents and on the invoice.
- (6) The Supplier is not entitled to have services due from him provided by third parties (sub-contractors) without our prior written consent.

§ 6 Investigation of defects – liability for defects

- (1) Unless anything different is stated below, our rights in the event of defects of quality and title (including shipments of the wrong goods and short-shipments) and other breaches of obligations on the part of the seller are governed by the provisions of the law.
- (2) According to the provisions of the law, the seller is particularly responsible for ensuring that at the time risk passes to us, the goods are of the agreed quality. The product descriptions that - above all as result of descriptions or references in our order - are the object of the order concerned or similarly, like these standard purchasing terms and conditions, have been included in the contract will be considered the agreed quality. It is irrelevant whether we, the seller or the manufacturer have provided the product description.
- (3) Contrary to § 442 paragraph 1 page 2 BGB, we will also have an unlimited right to claim that goods are defective should we have been unaware of the defects at the time the contract was signed due to gross negligence.
- (4) Our commercial obligation to inspect the goods and report defects is governed by the provisions of the law (§§ 377, 381 of the German Commercial Code (HGB)) subject to the following conditions: our obligation to inspect the goods is limited to defects that are evident based on an external check during our controls on incoming goods, including the delivery papers, as well as our quality control procedures based on random samples (e.g. transport damage, delivery of the wrong goods, short-shipments). There will be no obligation to inspect the goods should formal acceptance have been agreed. Moreover, the extent to which an investigation was feasible given the specific circumstances in the ordinary course of business will also be considered.
This will not affect our obligation to report defects identified subsequently. At any event, our complaint (notice of a defect) will be deemed immediate and prompt provided that it is received by the seller within 5 working days.
- (5) We have unlimited entitlement to warranty rights provided for in law; we are in any event entitled to demand from the Supplier, at our option, either that the defect be remedied free of charge or the delivery of new goods. The right to compensation, particularly compensation instead of provision of the service, is expressly reserved.
- (6) The seller will be required to bear the costs incurred in checking and repairing the goods (including any dismantling and re-assembly costs) even should it emerge that no defect was in fact present. Our liability to provide compensation in cases of unjustified demands that defects be eliminated is not affected; we will however only be liable should we have recognised, or failed to recognise due to gross negligence, that no defect was present.
- (7) We may eliminate the defect ourselves and demand reimbursement of the required costs incurred, or an appropriate advance, from the seller should the seller fail to comply with his obligation to provide subsequent fulfilment within a reasonable period of time set by us. No time limit will be required should subsequent fulfilment provided by the seller be unsuccessful or unreasonable from our point of view (e.g. on account of particular urgency, risks to operational safety or a pending threat of disproportionate damage); we will notify the seller of such circumstances immediately, if possible beforehand.

§ 7 Product liability – exemption – liability insurance cover

- (1) The Supplier is responsible for ensuring that the goods delivered meet the agreed product specifications as well as current legal requirements in the country in which the agreed reception point is located and, in the absence of such requirements, the quality provisions customary in the trade and moreover must be free of defects or errors within the meaning of the German Product Liability Law.
- (2) Should the Supplier be responsible for damage caused by a product, he will be required, on first being requested to do so, to indemnify us for compensation claims pursued by third parties to the extent that its cause lies in areas under the Supplier's control and are part of his organisation and for which he is himself liable in his external relations.
In the case of raw materials and primary packaging supplies, the Supplier guarantees the complete traceability of the products concerned at any time.
- (3) As part of his liability for cases in which damage occurs within the meaning of paragraph 1, the Supplier is also required to reimburse any expenses referred to in §§ 683, 670 BGB as well as in §§ 830, 840, 426 BGB we incur as a result of or in connection with claims by third parties including recalls carried out by us. We will inform the Supplier - to the extent possible and reasonable - of the content and scope of the recall measures to be carried out and allow him the opportunity to express an opinion. Any other legal claims are not affected.
- (4) Should goods be delivered to us about which the Supplier is aware that they will come into contact with our products, the Supplier warrants that the goods meet the relevant applicable food safety laws and will not impact the quality of our products, provided that an impact can be avoided based on the current state of technology.
- (5) Whenever applicable, the whole delivery must conform to the German Product Safety Law as well as the

relevant rules and technical regulations. In the absence of harmonised norms, the appropriate domestic norm specifications, e.g. accident prevention regulations, VDE (German Association of Electrical Technicians) regulations etc. as well as the relevant applicable European norms (CE, GS etc.) must be complied with in order to fulfil basic health and safety requirements.

- (6) Should these purchasing terms and conditions apply to products subject to the definitions contained in the German Foods, Consumer Goods and Foodstuffs Code (“LFGB”), the Supplier must ensure that every product delivered conforms to all the relevant provisions of the law and especially to §§ 30 ff of the LFGB and is required to prove this to us through suitable documents.
- (7) As part of appraisals of quality assurance that we are required to carry out, we are entitled to access to the Supplier’s factory during normal operating and business hours and having first given notice.
- (8) The Supplier undertakes to maintain adequate product liability insurance with an amount insured of at least € 10 million for each claim of damage to persons or property - lump sum - and will prove this on request. Any additional rights to compensation we might have are not affected.

§ 8 Compliance, Minimum Wage Law and sustainability

- (1) The Supplier is completely familiar with Bahlsen’s Corporate Compliance rules, especially the latest version of the Bahlsen Code of Conduct and will fully comply with all the requirements they include. The latest version of the Bahlsen Code of Conduct may be found under <https://www.bahlsengroup.com/de/download/> and will be sent on request.
- (2) Bahlsen understands sustainability as a continuous learning and transformation process applicable to the whole company. For Bahlsen, sustainability is not a conclusive result but describes a path that responsible companies should pursue. The Supplier undertakes to pursue sustainability through suitable measures.
- (3) As part of our energy management system, we have committed ourselves to a continuous improvement in energy performance. In purchasing energy services, products and installations, an appraisal as part of the selection process is therefore partly governed by performance in terms of energy use.
- (4) Should the Supplier also provide us with services, he is required to comply with the requirements of the German Law Dealing with a General Minimum Wage (minimum wage law or “MiLoG”), particularly the obligation to pay the minimum wage. Should the Supplier appoint sub-contractors with our consent, the Supplier is also required to oblige them to comply with the provisions of the minimum wage law. Moreover, the Supplier will indemnify us for any claims resulting from an infringement of the provisions of the minimum wage law by the Supplier or appointed sub-contractors.
- (5) At Bahlsen’s request, the Supplier must prove that compliance and/or sustainability requirements as well as compliance with the minimum wage law have been implemented. Bahlsen will be entitled to annul the contract in its entirety should the Supplier contravene the above requirements and not remedy the infringement within an adequate period of time set by Bahlsen.

§ 9 Quality and hygiene assurance

Our quality assurance agreements and our guidelines on hygiene are essential parts of these purchasing terms and conditions. They must under all circumstances be complied with by the Supplier, his employees and/or authorised representatives. Every Supplier, his employees and/or authorised representatives are required to confirm in writing on request that they are acquainted with the relevant quality assurance agreement and guidelines on hygiene before entering the company. All leaflets on hygiene may be requested from us beforehand.

§ 10 Proprietary rights

- (1) The Supplier acknowledges that all rights to the results of all work (including research and development work) as well as all rights to patents and utility models, design rights, copyrights, rights to trademarks, data banks and know-how as well as any other commercial proprietary rights (hereafter “proprietary rights”) present in the operating results, that are derived from their use and/or that they incorporate, including all conceivable legal positions with respect to ideas, drafts and designs, become our property completely and without any qualifications at the time of their creation. The Supplier herewith transfers to us all rights to operating results and proprietary rights. We hereby accept this transfer.
- (2) Should the transfer of rights provided for in (1) not be validly secured in accordance with mandatory applicable law, particularly with regard to copyright, the Supplier hereby grants us an exclusive right to use the operating results of the work and the proprietary rights, unrestricted as to time and place and applicable without exception to any kind of use. Should this be possible in accordance with the applicable law, the Supplier hereby renounces unconditionally and irrevocably all moral rights as the author existing with respect to all present and future results of work, including rights to use its name and the prohibition of distortion.

- (3) The transfer and grant of rights includes particularly the right to use the operating results created for our own and third parties' purposes in any way throughout the world and without any time limit, including use in and on products, whether our own or those of third parties, in any form. It also includes the right to duplicate and/or to publish the operating results. The rights also include the right to process, i.e. the entitlement to further process the operating results or to have them processed by third parties.
- (4) The Supplier undertakes, at our request, to provide all documents and to render all assistance that is required according to our discretion to obtain the rights to the operating results as well as other proprietary rights attached to the operating results or that are derived from them and/or to register such proprietary rights.
- (5) The transfer and grant of rights of use referred to above are fully covered by the Supplier's agreed remuneration.
- (6) The Supplier gives an assurance that the grant and transfer of rights in no way contradicts any other obligation on his part. The Supplier warrants that his freelancers and members of his permanent staff or third parties appointed by him - irrespective of whether in the Supplier's own name or in the name of a third party - transfer to us or to the Supplier the required rights of use for the implementation of the relevant projects in accordance with the above provisions or have granted or will grant them to us or to the Supplier to the extent to which the Supplier is to transfer or grant these rights to us. This includes for example the waiver of the right to mention his name as the creator or to other moral rights as the author as well as the unrestricted use of inventions capable of registration as patents and/or utility models made by his employees. The Supplier is required to submit the relevant agreements if requested to do so.
- (7) The Supplier warrants that the use of the rights provided by him and/or on his behalf does not infringe third parties' rights nor is it dependent on third parties' rights. The Supplier will relieve us on the first occasion of being asked to do so of any claims lodged against us by third parties on account of use according to contract of the services provided by the Supplier and will compensate us for any damage incurred on account of claims by third parties including any court or legal fees for legal defence. Otherwise, the provisions of the law will apply.

§ 11 Reservation of title – provision of materials – tools – secrecy

- (1) We retain title to any parts we provide to the Supplier. Processing or conversion by the Supplier will take place on our behalf. Should our reserved goods be processed together with other goods that are not our property, we will acquire co-ownership of the new product in proportion to the value of our product (purchase price plus VAT) to the other objects processed at the time the processing took place.
- (2) Should the product we provide be inseparably combined with other objects that are not our property, we will acquire co-ownership of the new product in proportion to the value of the reserved product (purchase price plus VAT) to the other objects included in the mixture processed at the time the mixing took place. Should the mixing be carried out in such a way that the Supplier's product is to be regarded as the main product, it is deemed to have been agreed that the Supplier will transfer a share of co-ownership to us; the Supplier will store the wholly or partially owned property on our behalf.
- (3) Title to the goods must be transferred to us unconditionally and irrespective of whether the price has been paid. Should we however occasionally accept an offer of transfer of title by the Supplier conditional on the payment of the purchase price, the Supplier's reservation of title will end at the latest on payment of the purchase of the goods delivered. Even prior to payment of the purchase price, we will still be entitled to re-sell the goods as part of normal business operations subject to advance cession of accounts receivable arising from the re-sale (alternatively, application of simple reservation of title and reservation of title extended to re-sale). All other forms of reservation of title, particularly extended or transferred reservation of ownership or extension to include further processing, are thereby excluded.
- (4) We retain title to tools or technical documents that we have provided; the Supplier is required to use these solely for the production of goods ordered by us. He is required to return these objects to us in a proper condition when called upon to do so and once they are no longer required in order to fulfil contracts concluded with us. In the absence of any other agreement, the contractual partners will each pay half the costs of maintaining and repairing the objects. The costs will be borne by the Supplier alone however should they be due to defects in products manufactured by the Supplier or to improper use on the part of the Supplier, his employees or other vicarious agents. The Supplier is also required to store tools and documents belonging to us carefully and to insure them against damage due to fire, water and theft at their value as new at his own expense. The Supplier also cedes to us with immediate effect all claims to compensation under this insurance; we hereby accept this cession. He is required to report all malfunctions to us immediately; claims for compensation will not be affected should he culpably neglect to do this.
- (5) We reserve the right of ownership and copyright to illustrations, drawings, calculations, formulas and other documents. Such documents shall be used exclusively for the contractual performance. The supplier is obliged to keep all received illustrations, drawings, calculations, recipes and other documents and information (including business secrets) strictly confidential. Confidential information is such information

which is marked as confidential or the confidentiality of which is evident from the circumstances, irrespective of whether it has been communicated in written, electronic, physical or verbal form. Upon request, he shall return such information to us immediately after completion of inquiries or after processing of orders. They may only be disclosed to third parties with our express consent. No confidential information in the above sense is information which

- (a) were apparent or known to the supplier at the time of transmission or became apparent afterwards
- (b) have been made available to the supplier by third parties without breach of law; or
- (c) the supplier has developed it himself without using confidential information.

The obligation to maintain secrecy shall continue to apply even after the execution of this contract. It only expires when and insofar as the production knowledge contained in the documents provided has demonstrably become generally known.

- (6) The supplier is prohibited from obtaining confidential information by means of reverse engineering. "Reverse engineering" in this context means all actions, including observing, testing, examining and dismantling and, if necessary, reassembling, with the aim of obtaining confidential information.
- (7) Insofar as the security rights to which we are entitled in accordance with paragraph (1) and/or paragraph (2) exceed the purchase price of all our reserved goods not yet paid for by more than 10%, we shall be obliged to release the security rights accordingly at the request of the supplier.
- (8) The supplier is not entitled to assign his claims from the contractual relationship to third parties. This does not apply insofar as monetary claims are concerned.
- (9) The confidentiality obligations pursuant to § 11 shall not apply if the supplier is obliged to disclose confidential information by law or on the basis of a stock-taking or legally binding official or court decision. In this case, the supplier shall inform the customer immediately of the obligation to disclose. Furthermore, the supplier shall make it clear at the time of disclosure that, if this is the case, it is a matter of business secrets and shall endeavour to ensure that the provisions of §§ 16 ff. GeschGehG is made use of.

§ 12 Time expiry

- (1) Unless anything different is stated below, each party's claims against the other will expire in accordance with the provisions of the law.
- (2) Contrary to § 438 paragraph 1 no. 3 BGB, the general period of limitation for warranty claims is three years from the time risk is passed. The period of limitation will begin with acceptance should acceptance of the goods have been agreed. The 3-year period of limitation will also apply as appropriate to claims on account of defects of title, whereby the legal period of limitation for the restitution of third parties' claims in rem (§ 438 paragraph 1 no. 1 BGB) is not affected; claims due to defects of title will moreover under no circumstances expire as long as the third party can still lodge claims against us, particularly due to lack of time limitation.
- (3) The periods of limitation in purchasing law, including the extensions referred to above, will apply - to the extent provided for in law - to all contractual claims on account of defects. Should we also be entitled to extra-contractual claims on account of a defect, these will be governed by the normal rules on time limitation (§§ 195, 199 BGB), unless in the particular case the application of the periods of limitation in purchasing law entails a longer period of limitation.
- (4) On receipt by the Supplier of our written notice of a defect and the demand that discussions begin (written or verbal), the time limitation of warranty claims is suspended until such time as these discussions are finally and unambiguously concluded. Should goods be replaced and the defect be remedied, the warranty period for the replaced and repaired goods will begin anew, unless we must assume from the Supplier's conduct that he does not consider himself obliged to carry out this measure but only carried out the replacement shipment or repair of the defect for reasons of goodwill or on similar grounds.

§ 13 Place of jurisdiction – place of fulfilment – applicable law

- (1) The place of jurisdiction for both parties is our place of business in Hannover; we are however also entitled to pursue claims at the place where the delivery obligation is to be fulfilled or at the Supplier's general place of jurisdiction.
- (2) The place of fulfilment for delivery is the agreed reception point.
- (3) Should one or more provisions of these terms and conditions be or become invalid, this will not impair the validity of the remaining provisions. An invalid provision in these terms and conditions will be replaced by such a valid provision as most closely approximates to the commercial result of the invalid provision.
- (4) The law of the Federal Republic of Germany to the exclusion of international uniform law, particularly UN purchasing law, is agreed as the applicable law. The conditions and implications of reservation of title will be governed by the law of the place where the product is stored should, according to this law, the choice



of law in favour of German law be invalid or ineffective.

Bahlsen GmbH & Co.KG
Hannover, February 2020