



Standard Purchasing Terms and Conditions

Status: 01/03/2020

1 General Information

Our Standard Purchasing Terms and Conditions shall apply to any and all contracts/purchase orders placed by **Raffinerie Tirlemontoise S.A.**, **BENEO-Orafti S.A.**, **BENEO-Remy S.A.** or **BioWanze S.A.**. Any deviating terms and conditions employed by the Contractor shall only apply if we recognize them expressly in writing. They will also have no effect even if we fail to contradict them in individual cases. Acceptance of deliveries, services or payment of such shall not be equivalent to agreement with the general terms and conditions employed by the Contractor.

2 Offers, Contracts

2.1 The submission of offers or the preparation of cost estimates shall be free of charge. We shall not be responsible for any costs nor shall we pay any remuneration for visits, planning and any other advance performance in connection with the submission of offers to the extent that they do not form the subject of a separate agreement in individual cases.

2.2 Contracts, changes or modifications of such as well as any other agreements made in connection with the conclusion of a contract shall be binding in the event that we state or confirm them in writing.

3 Terms of delivery, Prices

Unless otherwise agreed all of the prices indicated shall be carriage paid to the place of destination. They shall cover any and all services and deliveries owed by the Contractor for performance of the respective obligations up to and at the agreed place of destination.

4 Forwarding Instructions, Origin of Goods

4.1 The recipient shall be provided with a precise dispatch note/delivery note for each delivery on the date of dispatch. The Contractor shall be responsible for the consequences of incorrectly issued consignment notes. Our Contract number and the consignee shall be indicated on any forwarding documents. Transport insurance shall be taken out by the Contractor at the Contractor's own expense unless otherwise agreed. In the event that delivery involves dangerous goods which may be subject to special national and/or international forwarding instructions, then such delivery shall be correspondingly packaged, marked and dispatched.



4.2 The Contractor shall provide us with the corresponding certificates of origin if the delivery has to comply with the stipulations on origin of the preferential products agreement of the European Union.

4.3 The Contractor shall take back packaging material at the place of destination free of charge.

5 Ownership, Industrial Property Rights, Copyright, confidentiality

5.1 Any drawings, samples, formulas or other documents and aids which we make available to the Contractor for the execution of Contracts shall remain our property. They may be only used in accordance with their intended purpose and shall be returned to us upon request at any time.

5.2 The Contractor shall observe strict secrecy with regard to any documents, information or provision of materials and any other know-how to which he has gained access through the business relationship with us and not transfer or make them accessible to third parties without our express written consent. The Contractor shall also observe strict secrecy with regard to any knowledge and results gained through their employment; however, this provision shall not apply insofar as these have become accessible to the public without the active involvement of the Contractor.

5.3 In particular the Contractor shall be obliged to respect our copyrights and other industrial property rights. Their use shall only be permitted for the contractually agreed purposes. Products manufactured on the basis of documents, drawings or models prepared by us, by means of other materials provided by us or in accordance with our instructions shall neither be exploited by the Contractor nor shall the Contractor allow such products to be exploited by others. The Contractor may neither offer nor deliver them to third parties.

5.4 Contractor must maintain secrecy about all documents, information on supplies and our other know-how made available to it during the business cooperation and may not disclose or bring any of it to the attention of third parties without our express written consent, except in the case of mandatory disclosure obligations under law or in official cases of regulatory action or court orders. Third parties who are deployed by the Contractor to fulfil the contract must be expressly obliged to observe confidentiality should it be unavoidable that they have to be made aware of the protected know-how. The Contractor shall also keep secret all knowledge and results gained through its efforts; this does not apply to those which have already been made publicly accessible without its intervention or become generally known.



6 Deadlines, Dates

6.1 Compliance with agreed dates and deadlines shall be determined by receipt of faultless delivery and/or service(s) at the place of destination and/or successful acceptance insofar as such is agreed upon or provided for by law.

6.2 The Contractor shall be obliged to immediately notify us as soon as it becomes clear that the agreed dates and/or deadlines cannot be met on time either in part or as a whole, while indicating both the reasons and the prospective duration of the delay. Corresponding notifications provided by the Contractor shall not affect the legal rights and claims to which we are entitled in the event of default.

7 Contractual Penalty due to delay

If a contractual penalty has been agreed and becomes due in the event of default, then we shall be entitled to apply such until payment of the invoice for the delayed deliveries or services without having to reserve this right upon acceptance.

8 Partial, Excess or Short Deliveries

8.1 Partial deliveries or partial performance shall require our prior written consent. Even if we accept such without prior consent, this shall neither constitute accelerated maturity of payment obligations nor agreement with regard to the assumption of additional transport costs.

8.2 We reserve the right to honor excess or short deliveries in individual cases. If excess deliveries are made without our prior approval, then we shall be entitled to refuse acceptance of such deliveries, to store them at the Contractor's expense or to return them to the Contractor.

9 Bearing the Risk, Acceptance and/or Official Acceptance, Force Majeure

9.1 The Contractor shall bear the risk of accidental perishing and degradation up to the arrival of deliveries at the place of destination. If official acceptance is either agreed or prescribed by law, then the Contractor shall bear the risk until successful acceptance.

9.2 Instances of force majeure (in particular labor dispute measures) as well as other unforeseeable or uncontrollable external circumstances shall entitle us to accordingly postpone acceptance of deliveries and/or services and/or official acceptance.

9.3 For the remainder we shall be obliged to only accept deliveries if the latter exhibit the agreed quality characteristics.

10 Invoice, Payment

10.1 Invoices shall be separately submitted in duplicate following complete delivery free of defects, completion of service(s) or in the case of performance-related service(s) after their acceptance for each Contract while indicating the respective Contract data.



Invoices without the respective Contract number may be returned by us to the Contractor without processing.

10.2 In the absence of any other written agreement payment shall be made within 14 days following proper invoicing with a 3% discount or net within 60 days. The payment period shall commence upon receipt of the invoice, however not before complete fulfillment of the contract and/or acceptance without defect. Payment shall be regarded as on time if we instruct the bank to make payment on the last day of the period for payment and/or send payment via check to the post office.

10.3 Furthermore, all deliveries will be supported by appropriate transport and delivery documents. Services which have been documented by a weekly report per worker, duly approved by an identified representative of us, shall be attached to the invoice. Same shall apply for a purchase with a fixed price (lump sum) which shall be supported by a provisional or final acceptance document, approved by both parties.

11 Notice of Defect, Rights in the Case of Defect

11.1 In the event of a commercial duty to examine and/or a requirement to make a complaint with regard to a defect immediately upon receipt of the goods, our obligation shall be limited to examination of the goods for quantity and identity, apparent transport or packaging damage as well as random sampling of the goods for their essential characteristics. We shall immediately report obvious defects to the Contractor or within 10 days after delivery at the latest and other defects immediately after their discovery. The values determined by us during inspection of incoming goods shall be determining in cases of doubt with regard to the number of items, weights and measures.

11.2 The Contractor shall be obliged to provide deliveries and service(s) without fault. In particular such deliveries shall exhibit the agreed quality characteristics, correspond to the intended purpose, the current state of the art and generally recognized technical and industrial-medicine-related safety regulations of the respectively competent authorities and professional associations and satisfy relevant legal provisions. Approval of submitted drawings, samples and other documents (e. g papers, programming, etc.) on our part shall not affect the responsibility of the Contractor with regard to proper performance of contract.

11.3 In the case of defective deliveries and/or service(s) and in the case of warranty we shall be entitled to assert the legal rights associated with claims based on defective deliveries and/or service(s). If we are entitled to warranty claims that go beyond the legal rights associated with claims based on defective deliveries, then such claims shall also remain unaffected. A period of thirty-six months which begins with delivery and/or performance and/or acceptance, if such is either agreed or prescribed by law, shall apply to any and all claims based on defects that are subject to the statute of limitations. Longer statutory periods of limitation for limitation of the right of action with regard to a claim and the running of the statutory period of limitation for warranties shall remain unaffected.



11.4 If a defect shows up within the period of limitation, then we shall have the option of demanding subsequent performance by means of reworking, subsequent delivery and/or remanufacture within an appropriate period. In urgent cases, if the Contractor is unavailable or where there is the danger of a disproportionately high amount of damage, we shall have the right to eliminate defects ourselves or to have such defects eliminated by third parties at the expense and risk of the Contractor. We shall immediately inform the Contractor of such measures.

11.5 If subsequent performance by the Contractor is not effected within the specified appropriate respite, has failed or if setting of the deadline proves to be superfluous, then we shall be entitled to withdraw from the contract and demand payment of damages instead of performance, replacement of futile expenditures or reduction in price.

12 Guarantees connected with studies and/or engineering services

If the Contractor has carried out studies in order to obtain the results expected by the specifications (design notes, sizing, stability, materials, installation, market studies, etc.), a design guarantee is given, with the obligation to rectify at the expense of the provider, if the results are not achieved.

Approval of a design principle or plan by us does not in any way reduce the liability of the Contractor, who remains the sole party fully and completely liable in this respect. The same applies to any proposals, adjustments or alterations that we may be required to make or request.

13 Industrial Property Rights of Third Parties

The Contractor shall ensure that we will not violate the copyrights, patents or other industrial property rights of third parties through the use and/or sale of the Contractor's deliveries or service(s) according to contract. The Contractor shall indemnify us against any and all claims asserted against us due to violation of an industrial property right and be responsible for the costs of safeguarding our rights if such claims are based on culpable violation of duty by the Contractor. We shall inform the Contractor immediately in the event of a claim.

14 Product Liability, Insurance

14.1 The Contractor shall indemnify us against any and all claims arising out of product liability if such claims are due to a defect in the delivery and/or service(s) provided by the Contractor. Under the same conditions the Contractor shall also be liable for damages incurred by us in such cases through the type and scope of required and appropriate precautionary measures, e.g. public warnings or recalls. Our right to assert our own damage claim(s) against the Contractor shall remain unaffected.



14.2 The Contractor undertakes to take out appropriate insurance against corresponding risks and provide evidence of such to us by submitting the corresponding insurance policy on request.

15 Termination prior to Acceptance

We have the right to terminate the Contract in whole or in part prior to acceptance. The works and services provided by the Contractor up to this time shall be calculated exclusively subject to the following provisions:

Parts of the Contract which have been performed at the time when notice of termination is received, shall be remunerated in accordance with the Contract. The Contractor shall provide proof of the works and services performed. The Contractor shall assign the ownership in any documents and deliveries already completed up to the time of termination with payment to us and offer this to us. Moreover, the Contractor shall grant us the agreed rights of use and exploitation.

Claims for damages of the Contractor against us, e.g. for loss of profits or production loss, etc. shall in such case be excluded.

16 Termination for Cause

Each Party is entitled to a termination for good cause to the extent permitted by law.

A good cause shall also be, if the Contractor uses employees or persons to fulfil the Contract without the required residence or work permits or for whom the Contractor fails to pay the proper social security contributions or if Contractor carries out unauthorized temporary work with subcontractors.

We shall also be entitled to terminate the Contract for good cause, if the Contractor employs subcontractors who employ staff without the required residence or work permits or for whom the subcontractor fails to pay the proper social security contributions or if these carry out the unauthorized supply of temporary workers.

We shall also have a right to terminate the Contract for good cause, if the Contractor does not pay the statutory minimum wage or a minimum wage required by a collective agreement to its employees or employs a subcontractor which breaches such duties.

17 Insolvency proceedings

We shall be entitled to cancel the contract if the contractor does not meet his payment obligations towards his Contractors, applies for initiation of insolvency proceedings, or if facts come to our knowledge which will probably lead to an insolvency.



Carried out services shall be invoiced in accordance with contract prices. We may require compensation due to non-performance for remaining, non-performed services.

18 Data protection

The Contractor is obliged to observe the respective applicable provisions of the EU GDPR and the Belgian data protection law as well as to guarantee and monitor their compliance. Furthermore, it undertakes to treat all information made available to it in connection with this order as strictly confidential and to use it only for the fulfilment of its contractual obligations. Should the transfer of personal data to third parties be necessary for the fulfilment of the contract, the Contractor must obligate them to comply with the data protection regulations and to treat the data provided confidentially. The duty of confidentiality does not apply to information which the Contractor was demonstrably aware of at the time of its receipt or of which it has otherwise gained knowledge.

The Contractor shall process personal data within the meaning of Art. 4 (1) EU GDPR only within the scope of the order and our instructions as well as a corresponding written agreement on the processing of the order within the meaning of Art. 28 EU GDPR. In particular, the Contractor shall draw the attention of those employed by it for the performance of the contract to the applicable data protection regulations and shall oblige them to keep them accordingly. We are entitled to process all data provided to us by the Contractor, taking into account the applicable data protection regulations, including personal data. Should the Contractor transmit personal data to us for the purpose of fulfilling the contract, it undertakes to inform the data subjects in accordance with the applicable data protection regulations. We will inform the data subjects should we be obliged to do so under data protection law.

For the purpose of procurement, information about the Contractor shall be passed on to companies affiliated with us. The Contractor may object to the disclosure of information or its use after termination of the contract at any time in the future. Statutory retention requirements remain unaffected.

19 Minimum Wages

The Contractor declares to have knowledge of the coordinates of the website www.minimumlonen.be and declares that he will pay the owed wages to its employees and will pay them in the future.

20 Code of Conduct for Suppliers

We respect internationally recognized environmental, labour and social standards which are described and ruled in the Code of Conduct of the Südzucker Group. We expect our suppliers to align their business activities with the standards stipulated in the Code of Conduct for Suppliers, see: <http://service.szgroup.com/Supplier Code of Conduct.pdf>



21 Administrative situation

The provider acknowledges that it has the authorisations necessary to develop the works at hand and that it is up-to-date with payment of social security, taxes and duties. If this should not/no longer be the case upon receipt of this order, it undertakes to inform us without delay, in writing. Certificates will be sent to the requester (order cover page, above-right).

22 Action directe/Rechtstreekse vordering

The Contractor accepts and shall procure its Subcontractor to accept that in case of any type of direct action or claim brought by any unpaid Subcontractor against us, insofar such action is permitted by law (“action directe / rechtstreekse vordering”), any possible obligation of us in such a case, shall (i) be limited to a maximum amount equal to any unpaid part of contract price due by us to the Contractor under this Contract, and (ii) be fully satisfied by us by lodging the disputed funds into an escrow account opened in the name of both Contractor and the Subcontractor, at these parties’ joint initiative and costs. Contractor and the Subcontractor shall then be solely responsible for settling or litigating their dispute, without any further recourse towards us, and without any right for either Contractor or the Subcontractor to suspend or otherwise interrupt the performance of the works. The Contractor is obliged to reproduce this clause in his agreement/contract with its Subcontractors.

23 References/Advertisement

The Contractor shall not be authorized to use information with regard to an intended or existing contractual relationship for reference or marketing purposes without our written consent. Photographs taken on our properties or business premises as well as the use and/or publication of any kind shall be prohibited without our written consent.

24 Passing on Purchase Orders, Assignment, Setoff

24.1 The Contractor may permit the execution of purchase orders or essential parts thereof to be carried out by third parties only after obtaining our prior written consent.

24.2 The Contractor shall be entitled to transfer any claims against us or to have such collected by third parties only with our prior written consent unless they involve claims that are the subject of a declaratory judgment or are undisputed.

24.3 We shall contradict retention of title provisions on the part of the Contractor insofar as they go beyond simple retention of title. In individual cases they shall require prior written agreement. Should subcontractors nevertheless assert property rights, joint ownership or rights of lien and/or have execution measures carried out against us, then we in turn shall assert claims against the Contractor for any and all damages incurred as a result.



25 Place of Performance, Applicable Law, Venue

25.1 The place of performance for any and all obligations on the part of the Contractor shall be the place of destination.

25.2 Belgian law shall apply. Application of the regulations of the United Nations (Vienna) Convention on Contracts for the International Sale of Goods (CISG) from April 11, 1980 shall be excluded.

25.3 Venue shall be Brussels, Belgium.