

I. Scope of application, conclusion of contract

1. These General Terms and Conditions of Purchase (GTCP) apply to all business relations of BÄKO-ZENTRALE eG with our business partners and vendors ("vendors") and particularly to contracts for the sale and / or delivery of movable items ("goods"), unless otherwise provided for in a separate agreement (e.g. in framework agreements, contractual agreements, private label agreements, specifications or contracts). They especially apply if the vendor objects to their validity but still performs deliveries.
2. The provisions laid down in other General Terms and Conditions (GTC), particularly in General Terms of Delivery of the vendor, do not apply, even if they do not explicitly contradict these GTCP, no explicit objection was raised against them in individual cases and / or ordered goods / services were unreservedly accepted, unless we explicitly approved the vendor's GTC in writing.
3. These GTCP will also apply to all subsequent transactions between us and the vendor, even if we do not explicitly reference them every time. The most current version may always be accessed at baeko.de/agb/.
4. Any reference made to the validity of statutory provisions is only for clarification purposes. Even without such clarification, statutory provisions apply, unless they have been directly amended or explicitly excluded in these GTCP.
5. Purchase orders and acceptance as well as any amendments must always be in writing. If the vendor carries out a purchase order - also in part - this is deemed as acceptance, unless we object to a delivery not based on a purchase order forthwith after becoming aware of any such delivery. Oral agreements of any kind also require a written confirmation by the purchaser to become valid.
6. If the vendor fails to accept a purchase order within two weeks from receipt (cf. Section I.5.), we are entitled to withdraw it at no cost to us.

II. Delivery, consequences of missed deadlines

1. The vendor bears the procurement risk for its services, unless other agreements have been made in individual cases (e.g. restricted to stock). Agreed deadlines are binding. We have to be informed immediately about any circumstances that prevent the vendor from keeping deadlines or that delay deadlines. Receipt of the goods or completion of service at the place of fulfilment named in the purchase order is decisive for determining compliance with the delivery or service deadline. Partial shipments need to be approved by us.
2. We may determine a reasonable deadline for performing a service that is overdue or for the vendor to make a declaration of its willingness to provide the service. If the vendor fails to perform the service within the deadline or does not declare its willingness to perform, we may choose to either withdraw from the agreement or claim damages for non-performance. Paragraph 4 remains unaffected.
3. We may claim damages for non-performance in the amount of at least the difference between the market price and contract price at the relevant date, where this is to our detriment. In case of doubt, the relevant date shall be the first business day following the deadline. We may also choose to conclude a cover transaction in order to determine the damage caused. Other damage calculations as well as asserting further damages and claims for reimbursement of expenses are not excluded by the regulations named in the foregoing.
4. Where agreed delivery or service deadlines are not adhered to, we may request an amount of 1 % of the net price as a lump sum for each completed week of such delay up to a total amount of 5 % of the total net price of the purchase order without having to provide evidence of the damage caused, unless explicitly agreed otherwise. In addition, our statutory rights remain unaffected. Unreserved acceptance of a delayed delivery or service does not imply a waiver of restitution. The vendor may provide evidence that less damage or no damage has been caused.

III. Prices, terms of payment, transfer of risk, set-off rights and rights of retention

1. The price indicated in the purchase order is binding. Unless otherwise agreed, prices are quoted free place of delivery, duty paid (DAP pursuant to Incoterms 2020) and include packaging. Statutory value added tax is not included in the price.
2. Invoices may only be processed if they include the purchase order number as well as any additional allocation features. The vendor is responsible for any consequences arising from non-compliance with this duty, unless it proves that is not responsible for them.
3. Where no special agreement has been concluded, invoices are paid within 30 days with a cash discount of 3 % or within 60 days net from the due date of the remuneration claim and receipt of the invoice as well as the goods or performance of the service.
4. The risk of accidental destruction and accidental destruction of the goods will transfer to us with delivery at the place of delivery. Where acceptance has been agreed upon, this will be decisive for the transfer of risk (cf. Section IV.)
5. We will owe no interest on maturity. Default interest is 5 percentage points p.a. above the base interest rate. Our default is determined by the statutory regulations; a written reminder by the vendor is required in deviation thereof in any case.
6. We are entitled to statutory set-off rights and rights of retention as well as a plea of non-performance of the contract. Particularly, we are entitled to retain due payments as long as claims against the vendor resulting from incomplete or inadequate services are still unresolved. Opposing prohibitions of set-off by the vendor are not recognised.
7. The only set-off right and right of retention of the vendor is for legally established or undisputed counterclaims.

IV. Acceptance

1. If the vendor owes delivery of work or services, formal acceptance by us or a person authorised by us at the intended place of delivery of the goods pursuant to the purchase order is required. If the delivery of work or services requires commissioning, acceptance will be confirmed after fault-free commissioning. Where commissioning is required, we will choose whether acceptance will take place at the vendor's factory or the place of delivery.
2. Acceptance will be confirmed by issuing an acceptance certificate, unless otherwise agreed. Unconditional payments are not deemed as acceptance or approval of goods or a waiver of claims for defects.
3. If an official examination or acceptance of deliveries and / or services or parts thereof is mandatory, it will take place at the vendor's factory, unless other arrangements have been made.
4. Any costs in connection with acceptance will be borne by the vendor, unless other arrangements have been made.

V. Shipping

1. Shipments for which we bear the freight costs in full or in part must be shipped for the most favourable freight tariffs or in line with our shipping regulations.
2. To avoid transport damage due to missing or inadequate securing of the load, the vendor must commission the forwarder picking up the goods with securing the load.
3. If the goods sold are eligible for a tariff preference in line with the regulations agreed within the European Community or any other regulations, or if certificates, documents or other documentation is required in line with the regulations for importing such goods into the Community, the vendor has to provide the documents required for evidencing such preference claim or for importing such goods to the buyer in good time; certificates must be issued in the form provided for in the respective regulation.

VI. Packaging

1. The vendor undertakes to ship the goods that it manufactures or processes only in such packaging that complies with the type, form, and size as provided for in the Packaging Act valid from time to time as well as any other regulations applying to the packaging of its goods. Primary packaging of food, in particular, will comply with Regulation 1935/2004 or product-specific rules. The vendor agrees to take back any type of packaging (transport packaging, sales packaging or outer packaging) free of charge after use and to re-use it or supply such packaging for recycling. We undertake to treat any recognisably reusable packaging with due care and to provide it to the vendor free of charge in the best possible condition at the place of delivery, unless agreed otherwise.

VII. Quality assurance, insurance

1. The vendor undertakes to guarantee permanent quality assurance of its goods and services, either by using an appropriate quality assurance system or by other effective quality inspections and checks - which may be examined by us in individual cases - during and after the manufacturing of the goods. Where a quality assurance system has been established, we may request appropriate evidence thereof and also view the type of implementation of examinations and checks on-site, if

applicable also at the subcontractors' sites, as well as implement an audit at the company of the vendor.

2. The vendor undertakes to prevent unauthorised access to its goods or their manipulation by third parties or employees by taking appropriate measures.
3. Advance notice is required if the vendor intends to have its goods or services carried out by a subcontractor in full or in part. In this case, any subcontracting requires our prior approval. When choosing a subcontractor, the vendor must ensure that it is bound by the same obligations as the vendor.
4. The vendor must take out and maintain product liability insurance cover of at least EUR 10,000,000 per personal injury / material damage claim, which must also cover recall risks, unless a separate agreement has been made in individual cases. The vendor will send us a copy of the liability insurance certificate upon request forthwith.

VIII. Quality of the goods

1. The vendor covenants that the goods supplied or services to be performed will comply with the agreed product or service specifications as well as the current statutory provisions of the country in which the place of receipt is situated; failing existence of those, they will at least corresponds to customary quality provisions and, in addition, will be free of flaws or defects within the meaning of the [German] Product Liability Act. Those product or service specifications that are the object of the respective agreement - particularly by designation or reference in our purchase order - or that are included in the agreement in the same manner as these GTCP are deemed agreed upon.
2. The vendor is aware that raw materials as well as goods in process and finished products are destined for human consumption through further processing in or resale by baking businesses. Aside from any further or deviating quality agreements, the vendor of food and substances destined for use in food warrants that the goods are healthy and customary, fit for human consumption and free from foreign particles pursuant to state of the art and that all statutory provisions concerning food that are valid from time to time, especially with regard to residues and contaminants as well as genetic modifications, exposure to radiation, nano materials, etc. are complied with. It will ensure compliance with these requirements by adequate and systematic goods checks at all times.
3. The vendor of primary packaging material and other materials that come into direct contact with food warrants that the goods are fit for direct food contact and that they comply with the relevant statutory provisions in their respective valid version.
4. Where relevant, the entire shipment must comply with the Product Safety Act as well as its corresponding regulations and technical rules. Where no harmonised standards exist, basic health and security requirements must comply with corresponding national standard specifications, e.g. accident prevention regulations (UVV), VDE provisions, etc.; as well as the respectively applicable European legal standards (CE, GS, etc.).
5. The vendor must immediately inform us about any changes in the formulation, composition or construction of the goods supplied, where those changes may affect the quality, taste, shelf-life, declaration, fitness for further processing, specification, functioning or other major characteristics of the product. If it fails to notify us accordingly, we have the right to withdraw from any shipments still outstanding as well as from goods that have already been shipped but not yet been processed. The vendor will replace those goods immediately at its own expense.
6. The vendor of food and primary packaging guarantees full traceability of the respective products back to the manufacturer or producer at all times.

IX. Defective goods

1. We are bound to examine the goods for any deviations from quality or quantity within a reasonable period. Subject to Section 377(4) German Commercial Code (HGB), a complaint is deemed to be made in time if it is raised within a period of 5 (five) working days from the date of receipt of the goods or, in case of defects that are only detected during an examination that exceeds a mere inspection upon receipt, within 8 days from delivery or from detection in case of hidden defects.
2. Statutory provisions apply with regard to our rights in case of material defects and defects of title of the goods (including wrong delivery and short delivery) and other breaches of duty by the vendor, unless otherwise determined in these GTCP. We are entitled to full statutory defects claims; in any case, we are entitled to request a reduction, free remedy of defects or delivery of new goods from the vendor, at our discretion. The claim for damages, particularly damages instead of performance, is explicitly reserved.
3. In particular, the vendor is liable for the agreed quality (cf. Section VIII.) of the goods and their being free from material defects and defects of title on transfer of risk. In this regard, it is irrelevant whether the product description was provided by us, the vendor, the manufacturer, or a third party.
4. In deviation of Section 442, para 1(2) German Civil Code, our claim for defects is unrestricted, even if the defect remained undetected at the time of conclusion of the agreement due to gross negligence.
5. If the vendor fails to carry out his obligation of subsequent performance within a reasonable period determined by us, we are entitled to rectify the defect ourselves or arrange for a replacement purchase and request the vendor to compensate us for the expenses incurred or ask for a corresponding advance payment. If subsequent performance by the vendor was

unsuccessful or is unreasonable (e.g. due to particular urgency, endangering of operational safety or probable disproportionate damage), setting a deadline is not required. We will, however, inform the vendor immediately, if possible in advance, about any such circumstances. The costs incurred by the vendor for an examination and subsequent improvement will always be for its own account, even if it transpires that there actually had not been a defect. Our liability for damages in case of an unjustified request to remedy defects remains unaffected. However, we will only be liable if we recognised that there was no defect or did not recognise is due to gross negligence.

6. If any claims are raised against us by third parties for alleged infringements of rights or legally protected interests of such third parties in connection with the delivery / service provided by the vendor, the vendor is obligated to hold indemnify us from such claims following our first written request, if the cause of such damage lies within his controlling or organisational responsibility or can otherwise be attributed to it. The vendor's duty to indemnification refers to all necessary expenses incurred to us as a result of or in connection with the claim raised by a third party. In order to secure such claims, we are entitled to withhold adequate partial amounts from subsequent invoices by the vendor.
7. Except for cases of malice, the statute of limitation for claims for defects is 36 months from the transfer of risk, unless agreed otherwise. If the vendor fulfils its duty of subsequent performance by means of a replacement delivery, the statute of limitation for the replacement goods delivered starts with the date of delivery of those goods.
8. Within the framework of its liability for damage, the vendor is obligated to refund any expenses that arise from or in connection with claims raised by third parties, including any recall measures implemented by us, in line with Sections 683, 670 German Civil Code as well as Sections 830, 840, and 426 German Civil Code. If possible and reasonable, we will inform the vendor about the scope and content of our recall measures and give it an opportunity to respond. Any other statutory claims remain unaffected.

X. Processing complaints

1. The vendor undertakes to process complaints immediately. In the event of danger to life and limb, in the case of foreign bodies found and in the case of publicly effective complaints, an answer is guaranteed within 12 hours, and for the rest within 24 hours. If a recall from our customers or end users must be carried out due to an official directive or as a result of notification about non-compliance of the goods provided by the vendor, the vendor will provide all appropriate information required for such action forthwith.
2. The vendor will bear the costs linked to determining the damage and processing of the recall. For such processing, we may charge an adequate lump sum, based on the working hours expended.
3. Two days at most after we became aware of such non-compliance, the vendor will in particular declare whether raw goods in our possession or in the possession of a customer and any end product that may already have been manufactured may be destroyed or which quantity of the goods must be retained for preserving evidence. If the vendor fails to provide such information, its agreement to disposal of the goods and assuming the costs linked therewith is deemed given. Where goods are retained at the direction of the vendor, the vendor is obligated to refund any storage and logistics costs in connection therewith.

XI. Confidentiality and data protection

1. Any documentation and other know-how that we submitted to the vendor, irrespective of its form (written, by fax, email, or on an electronic data carrier), remains our sole property. Such documentation is part of our technical trade secrets and must be treated confidentially.
The vendor undertakes to treat such documentation confidentially and to provide it only to employees that need to be aware of it for the performance of this agreement and who, in turn, are bound to confidentiality. It will not provide it to third parties and will make copies only in order to perform a purchase order. After completion of the delivery, the vendor will return the entire documentation as well as any copies thereof to us.
2. We are entitled to collect, process, and use personal information of the vendor and / or its employees where those are related to the business within the framework of the negotiations prior to conclusion of the agreement as well as the processing of the agreement. Personal information may, in particular, include company name, business address, phone number (including mobile numbers), fax number, and e-mail addresses. Processing of such data may also include transfer to one of BÄKO's regional cooperatives.

XII. Property rights

1. The vendor warrants that no third-party rights in countries of the European Union or other countries in which it manufactures products or commissions manufacturing will be infringed in connection with its delivery and the usage of the items so delivered. Liability is excluded if the vendor can prove that it neither was nor had to be aware of the existence or future emergence of such rights when it supplied the delivery product.

2. If any claims in this regard are raised against us by a third party, the vendor is obligated to indemnify us from and against such claims. We are not entitled to conclude any agreements with such third parties, in particular a settlement, without the vendor's consent.
3. The vendor's duty to indemnification refers to all necessary expenses incurred to us as a result of or in connection with the claim raised by a third party.

XIII. Vendor's insolvency

If the vendor ceases its payments, becomes insolvent or if insolvency proceedings over its assets or comparable proceedings for the settlement of its debts are filed by the vendor or its creditors, we are entitled to either terminate the agreement with immediate effect, withdraw from the agreement and / or enter into the agreements of the vendor with its subcontractors, irrespective of our other statutory or contractual rights.

XIV. Entrepreneurial responsibility, code of conduct

1. Within the framework of its entrepreneurial responsibility, the vendor warrants that any statutory provisions, including environmental protection laws, will be observed with in connection with the manufacturing and sale of its goods or performance of services, that it will comply with the provisions and laws for the preservation of health of its employees, and that child or forced labour will not be tolerated. With acceptance of the purchase order the vendor also confirms that it will neither accept nor tolerate any form of bribery or corruption.
2. The supplier undertakes to comply with the provisions of the code of conduct of BÄKO-ZENTRALE eG, which can be called [here](#), at all times and to oblige his sub-suppliers accordingly.
3. The vendor assures not to participate to our detriment in agreements or behaviours infringing Section 1 of the Act against Restraints on Competition (ARC) and Article 101 of the Treaty on the Functioning of the European Union (TFEU), which aim to achieve or effect a prevention, restriction or distortion of competition.
4. The vendor warrants to ensure compliance with the obligation pursuant to Section XIV. 3. by adequate operational regulations (e.g. appropriate compliance rules). If the vendor culpably infringes the agreement in Section XIV. 3., damages based on the net settlement sum of the remuneration paid by BÄKO ZENTRALE eG during the cartel period are to be paid as follows:
 - o 10 % in case of price or quota fixing agreements as well as market or customer allocations;
 - o 3 % for all other infringements of competition law.

The vendor is free to prove that no damage or significantly lower damage has been caused.

5. Our right to assert further statutory or contractual claims above and beyond such liquidated damages remains unaffected.
6. Where a cartel infringement has been finally established, the vendor will provide information about its profit margins achieved during the cartel period as well as for the 5 years preceding and up to 3 years following such period upon request.

XV. General provisions

1. The contractual relations are exclusively governed by German law, excluding its conflict of law rules and the UN Sales Convention (Contracts for the International Sale of Goods (CISG)).
2. Irrespective of the place to which the shipment was made by the vendor, the place of venue for both parties is the competent court at our company headquarters. Additionally, we are entitled to file a claim at the registered office of the vendor.
3. If individual provisions of these GTCP are or become fully or partially invalid, the effectiveness of the remaining provisions remains unaffected.