

## General Terms and Conditions of Purchase Brau Union Österreich AG (hereinafter referred to as the "Principal")

Version 29/11/2021

### 1. Scope of application

The T&Cs of purchase detailed below exclusively regulate any deliveries and services provided by the Contractor. They shall also apply to future transactions.

Conflicting terms and conditions of the Contractor are excluded. The legal transaction shall also be subject to the T&Cs of purchase of the Principal if the Contractor's order confirmation deviates from the conditions set out in the order of the Principal. Verbal agreements or representations or amendments to these T&Cs of Purchase must be confirmed in writing by the Principal. Delivery or provision of the service means that the Contractor accepts these T&Cs of Purchase.

### 2. Orders

2.1. Only orders placed via SAP and including order number of the Principal shall be binding. Changes to these orders are only effective if they are made via SAP.

2.2. Other orders not placed via SAP (in writing, per e-mail or verbally) are only binding if they are confirmed in writing or electronically by the Principal's procurement department (by e-mail). Any changes to these orders must also be made in writing or by e-mail.

2.3. Unless expressly agreed otherwise, there shall be a warranty period of 24 months from receipt of the delivery. It is expressly agreed that section 377 Austrian Companies Act (UGB) does not apply.

### 3. Delivery period

The agreed delivery dates shall be binding, the Principal must be notified of any foreseeable delays as soon as possible and without prejudice to any claims the Principal is entitled to. Upon receipt of such notice, the Principal shall be entitled to withdraw from the contract or parts thereof without having to set a grace period first. The rights set out in section 918 et seqq. Austrian Civil Code (ABGB) shall remain unaffected.

### 4. Shipping and shipping regulations

Enclosed in each consignment must be a numbered delivery note indicating the order number. A delivery note containing the above information must also be included in each shipment dispatched via subcontractors or through freight forwarders and hauliers. If dangerous goods are transported, the Contractor shall be responsible for compliance with statutory provisions. The place of performance for the delivery shall be the destination or shipping address specified by the Principal. Unless expressly agreed otherwise, any transport risk shall be for the Contractor.

### 5. Liability and security regulations

If the delivered items are machines or technical systems or parts thereof, they must comply with all Austrian safety regulations (laws, standards, etc.), in particular with the General Worker Protection Regulation, the Machine Safety Regulation and any regulations applicable to electronic equipment.

A data sheet shall be included in any deliveries of chemicals, cleaning agents and similar. The Contractor shall exempt the Principal from any and all claims under Austrian product liability law that third parties assert against

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#### Brau Union Österreich AG

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Company register: FN 77.559h

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the Principal based on defective goods. The Contractor shall support the Principal's defence against such claims to the best of the Contractor's abilities. Furthermore, the Contractor shall continuously monitor the goods that are delivered to the Principal and inform the Principal immediately of any defects, especially construction and manufacturing defects. The same applies in the event of advancements in science and technology. Where applicable, the Contractor indicates any danger associated with using the item through clear and permanent labelling. There shall be no restrictions of any kind of the Contractor's obligations for the Contractor under product liability law or of the compensation claims the Principal as the Buyer is entitled to under that law or other provisions. The Contractor agrees to only deliver raw materials and auxiliary materials that were not genetically altered and that are not based on genetically modified seeds. For auxiliary materials, this obligation shall also apply to the entire manufacturing process and/or the precursors.

## **6. Environment, safety, compliance with legal regulations**

Compliance with commercial law is the Contractor's responsibility. The Contractor shall take measures ensuring that the Contractor's agents (employees, subcontractors etc.) comply with any and all legal requirements relating to health and safety at the workplace and environmental protection. Where Contractor employs foreigners in terms of the Foreign Nationals Employment Act (Ausländerbeschäftigungsgesetz) as amended, the Contractor must fulfil the Contractor's statutory control obligations. The Contractor must proactively prove compliance by submitting any and all associated documents (residence permits, work permit etc.) to the Client prior to the start of work. The Contractor shall indemnify and hold the Client and Client's corporate bodies and employees harmless against any damage caused by a violation of the above obligations.

## **7. Invoicing and payment**

7.1. The invoice shall be sent to the Principal after delivery, that means it will not be enclosed in the delivery. The invoice must comply with the Austrian Value Added Tax Act and must also contain the order number of the Principal. The invoice shall be paid subject to the payment conditions agreed by the supplier of Brau Union Austria AG, the payment term starts on the day the invoice is received.

7.2. Contractors may participate in a Supplier Finance Program via Heineken B.V. This Supplier Finance Program enables contractors to sell their claims against the Principal to banks named for this purpose. Access to or participation in the Supplier Finance Programs is not tied to the agreed payment conditions.

## **8. Assignment, settlement of claims and rights of retention**

The Contractor is not permitted to assign or pledge any claims arising from deliveries to the Principal to third parties, with the exception of the circumstances set out in section 7.2. The Contractor may not offset their claims against counterclaims of the Principal. The Contractor's rights of retention are expressly waived to the extent permitted by law.

## **9. Industrial property rights**

The Contractor warrants that the delivery or service they provide within the national territory or any agreed country of destination does not violate any third-party rights. They shall indemnify and hold the Principal harmless against any and all claims of third parties. Ownership and any and all copyrights, trademarks, registered designs and patent rights for documents and samples that were made available shall remain with the Principal. The Principal may demand return of these at any time.

## **10. Confidentiality**

The Contractor shall consider the order and associated work to be a trade secret and shall treat it as confidential accordingly. They shall be liable for any damage caused to the Principal as a result of a violation of one of these obligations by the Contractor or their employees and authorised representatives. The Principal reserves the right to demand compensation.

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## **11. Place of Jurisdiction**

The competent court shall be the court in Linz that has jurisdiction *ratione materiae*. Any transaction shall be exclusively governed by Austrian, excluding its reference norms and excluding the UN Convention on Contracts for the International Sale of Goods.

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