



## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1. General Scope

The purchasing company ("Purchaser") is a company in the LACTALIS GROUP, a group which is specialized in the manufacture and marketing of dairy products.

These General Terms and Conditions of Purchase ("GTCP") govern all relationships relating to the purchase of products, including finished products, dairy raw materials, ingredients, and packaging materials ("Products") and associated services and documentation ("Services") between the supplier and the Purchaser (each a "Party" and collectively the "Parties").

The GTCP form an integral part of all purchase orders between the supplier and the Purchaser (each, a "PO").

The following documents form the contract between the supplier and Purchaser ("Contract"):

- 1) The PO placed by the Purchaser (including any additional PO's),
- 2) Purchase Agreement(s) created by Purchaser in SAP or any ERP and accepted by supplier or any other similar document in relation to the PO ("Technical Contract"),
- 3) These GTCP,
- 4) The Ingredients Chart or the Packaging Charter or the Indirect Purchasing Charter (collectively referred as the "Quality Charter"),
- 5) The specifications / statement of works if such document has been communicated,
- 6) The Food Safety Document for ingredients or the declaration of compliance with regulations relating to materials and articles in contact with foodstuffs for packaging,
- 7) The Supplier Data Questionnaire
- 8) Lactalis Supplier Code of Conduct
- 9) Any additional exhibits or attachments provided by the local Purchaser

The supplier acknowledges that all PO's shall be governed by the GTCP to the exclusion of all other terms and conditions contained in any document provided by supplier, including any terms or conditions contained in any quotation, acknowledgment or other document issued by the supplier, and Purchaser rejects any and all additional, different, or inconsistent terms or conditions.

### 2. Acceptance and Modifications of the Contract

The following shall constitute an acceptance of the Contract by the supplier:

- returning a signed copy of the PO or confirming the PO by any means,
- commencement of performance of the Contract.

Purchaser may modify or cancel a PO at any time before acceptance by supplier.

Any amendment, deletion, supplement, change or waiver of the inclusion of the GTCP as part of a Contract may be made only by prior written agreement of the Parties.

If the PO is issued pursuant to a Supply Agreement by and between supplier and Purchaser ("Supply Agreement") the PO shall be only subject to the terms and conditions of the Supply Agreement.



After acceptance of the Contract by supplier, Purchaser shall be entitled to modify or cancel the Contract subject to the payment to supplier of the direct costs reasonably incurred by supplier as a result of such modification or cancellation.

For avoidance of doubt the supply by the supplier of Products/Services without a PO shall be at the supplier's risk and expenses.

### **3. Supply of Products/Services**

The supplier shall supply to the Purchaser, Products and Services in accordance with the Contract.

Any items, services, functions, or responsibilities not specifically described in the PO, and which are reasonably necessary for the proper supply of the Products/Services are deemed to be included within the scope of the Products/ Services to be delivered for the Price (defined below).

The supplier shall comply with all written policies (whether presented electronically or otherwise), recommendations and requirements and reasonable instructions of the Purchaser provided from time to time.

In particular, the supplier undertakes not to modify the Specifications nor the manufacturing process of the Products without the written consent of the Purchaser and to follow in this respect the conditions stipulated in the Purchaser's Quality Charter attached to the Contract.

### **4. Forecast**

The Purchaser has no minimum volume obligation.

The Purchaser may provide regular forecasts of its needs to the supplier. Such forecasts are non-binding estimates only and are only intended to assist the supplier in scheduling its production and delivery of Products or provision of Services and they are without prejudice to the volumes actually purchased under the Contract.

If the supplier is unable to meet such forecast, the supplier shall notify the Purchaser immediately to enable the Purchaser to find alternative solutions.

### **5. Inspecting the Products before shipment**

Any Product sent by the supplier must have been carefully inspected prior to shipment. Upon request of the Purchaser, supplier shall also provide:

- a certificate of conformity with the applicable laws and regulations in force and the Contract or PO,
- an analysis bulletin/result,
- any other information/documents reasonably requested.

If special tests are stipulated in the PO, these must be the subject of a report enclosed with the documents referred to above.



## **6. Delivery/late delivery**

Unless specified otherwise in the PO, the Products shall be delivered to Purchaser under Incoterms® 2020 DDP to Purchaser at the location stated in such PO. Supplier shall assume the risk of loss or damage to the Products and retain title until they are delivered to Purchaser in accordance with the Incoterm®, at which point the risk of loss and title shall transfer to Purchaser.

If Products are imported, supplier will act as the importer and assume responsibility for the import process. Supplier shall provide Purchaser along with the Products, appropriate information and corresponding customs paperwork, unless Purchaser agrees otherwise in writing or the agreed Incoterms® dictate otherwise. Supplier will bear the costs, including taxes and other delivery charges, for importing Products and Purchaser is entitled to request supplier reasonable instructions with respect to issuance of the required import documentation.

If Products are imported, and supplier cannot act as importer, Incoterms® 2020 DAP will be applied, and in such case Purchaser will bear the costs, including taxes and other delivery charges, for importing Products.

Time of delivery is of essence of the Contract and all agreed lead time shall be strictly complied with.

Supplier shall inform Purchaser immediately of any actual or anticipated failure to deliver all or any part of the Products as soon as supplier is aware.

If supplier is late in delivering the Products and/or associated Services, Purchaser reserves its right at its discretion:

- (i) to cancel the PO (or any part thereof) and/or reject any Product delivered after the agreed upon lead-time.
- (ii) to claim liquidated damages which will be equal (unless otherwise specifically set out in the PO), to 2% of the value of the delayed delivery (exc. of VAT) per day of late delivery (capped at 10% of the PO amount for Products) and/or
- (iii) to purchase the same from a third party. If the price of such products/services is higher than the Products/Services of the supplier, the supplier shall pay the difference to the Purchaser.

Acceptance of any Products delivered after the specified delivery date shall not be construed as a waiver of any Purchaser's rights or remedies under the Contract.

Purchaser reserves its right to refuse any Products, in case of partial or early delivery.

Supplier shall properly label all Products with supplier's name, description of Products, PO number, batch number and if applicable the expiration date and any other identifying information requested by Purchaser or applicable laws and regulations.

Supplier will provide accurate and complete information on all shipping and customs documents, including a description of the Products, country of origin and manufacture, currency, delivery terms and the actual manufacturing site if Products are ingredients or food-contact packaging materials.



## **7. Acceptance**

Physical delivery of the Product shall not be deemed valid acceptance by Purchaser. Acceptance shall only occur after the Purchaser has carried out its inspection.

Purchaser can refuse any Products which do not comply with the Contract. Such Products will be made available to the supplier or returned to supplier, at supplier's costs and risk. Purchaser can, in the event of a PO which provides for consecutive deliveries, immediately terminate the Contract either partially or wholly, by written notice to supplier, and Purchaser will not owe any indemnity or have any further liability to supplier as a result of the termination.

Supplier shall not, in any circumstances, upon a payment made by Purchaser consider that Purchaser has waived its right to reimbursement from or indemnification by the supplier under the Contract.

## **8. Prices**

The price for the Products/Services shall be as set out in the PO ("Price") which Price includes all additional costs but excludes all taxes, unless set out in a breakdown of the Price and agreed in writing by the Parties.

## **9. Invoicing**

Each invoice shall refer to only a single PO unless otherwise agreed upon by the Parties and must include the designation of the Products/Services, order reference and the unit prices and the quantities, as per the provisions in the PO.

Invoicing must comply with the terms of payment defined in the PO.

Invoices shall be issued in one of the following formats, according to mutual consensus of Parties/ or in accordance with local legislation.

- a single paper copy to be sent to the address specified in the PO,
- by PDF to be sent to the email address indicated in the PO (a single invoice per PDF and only in black and white),
- by Electronic Data Interchange or "EDI" (in other words, exchange of standardized electronic documents) or by making them available on a dedicated computer portal.

Payment of invoices that do not comply with applicable laws and regulations and/or with the provisions of this article may be withheld by Purchaser pending such compliance.

## **10. Payment Terms**

No advance payment is required to be made by the Purchaser under the Contract.

Payment terms are 90 days from the end of the month in which Purchaser receives supplier's invoice plus 2 days, except as otherwise specified in the Contract or required under applicable law.

The amount to be paid shall take into account any accrued late delivery charge, which shall be deducted from the sum payable by the Purchaser to the supplier.



## **11. Representation and warranties**

The supplier represents and warrants:

- it has the requisite skill, experience, knowledge, personnel, and facilities necessary to fulfill its obligations under the Contract. Supplier further confirms that it has and is in compliance with all necessary licenses, intellectual property ("IP") rights, permits and approvals required to execute, deliver, and perform its obligations under this Contract;
- the Products/Services comply in all respects with the Contract and legal, regulatory, rules, orders and other regulations in force on the delivery date in the country of delivery;
- the Products are of a merchantable quality, with good quality materials and workmanship, free from defects and fit for use in or with food products for human and/or animal consumption and fit for Purchaser's intended particular use and purpose;
- it has and will maintain sufficient capacity and resources to supply all of Purchaser's requirements arising under a PO on a continuing and uninterrupted basis.
- If certification requirements are expressed in the specifications or statement of work, the supplier warrants that the Products/Services will be certified accordingly and undertakes to communicate all necessary documentation to the Purchaser. The supplier shall keep all written records relating to such certifications for a period of 5 years from the execution of the PO.
- The supplier complies with Lactalis Quality Charter, and the food safety documents for each SKU. As stated in the Quality Charter, all Products delivered are manufactured only on sites qualified by the Purchaser.
- The supplier adheres to the principles of the Lactalis Supplier Code of Conduct.

The supplier shall be liable for damages, losses and any consequences of any nature which the delivered Products/Services and/or the breach of its obligations hereunder (the "Damage") cause to the Purchaser, Purchaser's customers or any other person (including public authorities), and must consequently take all necessary actions to fully compensate and correct such Damage, despite any limitation or exclusion of liability to the contrary set out in any documents (in particular supplier's documents) which therefore are considered null and void.

Supplier undertakes to indemnify Purchaser for and against any direct or indirect losses incurred and attributable to its actions or omissions. It will pay Purchaser any sums of any kind whatsoever (including direct, indirect, non-material or subsequent losses, loss of profits, loss of reputation and all legal costs, damages, fees, fines, penalties, guarantees and others) which Purchaser has incurred or paid or will incur or pay in the future because of the Seller's actions or omissions in connection with the delivered Products and/or supplier's failure to comply with the Contract. These sums are payable on request by Purchaser. Purchaser's inspections/audits do not release supplier from its liability in any way.

When possible, supplier must correct any defect in the Products/Services, on request by Purchaser as quickly as possible, and at its exclusive costs/expenses. If supplier is unable to implement corrective actions Purchaser reserves the right to have the necessary works performed by a third party at supplier's cost.



## **12. Insurance**

The supplier shall maintain such insurance policies as are appropriate and adequate having regard to its obligations and liabilities under the Contract and applicable law, including:

- a professional liability insurance policy and/or commercial general liability policy for all damage which may be caused to the Purchaser, including for bodily injury and property damage caused, as the case maybe, by the provision of Products and/or by supplier's employees when performing any Services, and which policy shall include contractual liability coverage insuring the activities of supplier under this Contract;
- a workers' compensation policy with limits no less than the minimum amounts required under applicable law;
- if a vehicle is used for the provision of Products and/or Services, automobile liability insurance covering owned, non-owned, rented, and hired vehicles; and
- any other policy and policy terms reasonably required by the Purchaser.

The supplier undertakes to maintain all required insurance coverage for the duration of the Contract (and for at least one year thereafter) and to provide the Purchaser with all relevant certificates on request. Supplier may use primary plus umbrella (excess) coverage to satisfy minimum policy limits (if any) that are communicated by the particular Purchaser. Supplier must obtain the required insurance from reputable insurers that (i) are licensed to do business in the locations in which supplier's obligations hereunder are fulfilled and (ii) have a rating of at least "A-" from the AM Best rating service or its equivalent. Supplier will ensure that Purchaser is named as an additional insured and that supplier insurance carriers waive rights of subrogation against Purchasers' insurance (except where prohibited by applicable law).

## **13. Intellectual Property (IP) rights**

Each Party shall remain the owner of all IP rights owned by it before the start of the Contract.

Purchaser shall remain the owner of IP rights, whether existing or future, relating to or created in the course of performance of the Contract.

Supplier shall grant and cause third parties to grant to the Purchaser all necessary license rights to use, reproduce, exploit, modify, alter, or incorporate the Products/Services so that the Contract can be performed without restriction.

Supplier undertakes that it shall indemnify and hold Purchaser harmless against all legal actions concerning the trademarks, patents, drawing, or models relating to its Products/Services.

The supplier shall not use the name of the Purchaser or any element that identifies the Purchaser or the Lactalis Group to which it belongs in any publication or means of publicity without the written consent of the Purchaser.

## **14. Confidentiality**

Supplier undertakes to keep confidential, even after the expiration of the Contract, all information that it has received or accessed during the execution of the Contract concerning Purchaser, in particular but not limited to, technical, marketing and commercial information, whether disclosed orally or disclosed or



accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Contract.

All documents received by the supplier may only be used for the purpose of the execution of the Contract and shall not be disclosed to any third parties unless expressly agreed by the Purchaser in writing. Upon Purchaser's request, supplier shall promptly return or destroy all documents and other materials received from Purchaser. Purchaser shall be entitled to injunctive relief for any violation of this article. This article does not apply to information that is: (a) in the public domain; (b) known to the supplier at the time of disclosure; or (c) rightfully obtained by supplier on a non-confidential basis from a third party.

#### **15. Personal Data**

Each Party shall ensure to comply with its obligations in terms of the collection and processing of the personal data under control of the other Party, in accordance with the laws and regulations in force on the protection of personal data, applicable in Europe (GDPR) and/or in the country of Purchaser and/or other data protection legislation to the extent applicable.

The categories of personal data processed by each Party within the framework of the preparation and the performance of the Contract include data relating to personal information and contact details of the employees of the other Party.

The nature and purposes of the processing are related to the performance of the Contract.

If the Parties decide to implement personal data processing for purposes other than those mentioned above, the Parties undertake to conclude a data processing agreement in accordance with applicable law.

Any personal data of the other Party may be maintained throughout the duration of the contractual relationship between the Parties, plus a period of three (3) years at the end thereof for the purposes of monitoring the post-contractual relationship. After that such data shall be deleted.

#### **16. Independent Contractors**

It is understood and agreed that Purchaser and supplier are and at all times shall remain, independent contractors and no partnership or joint venture is intended or implied by the undertakings set forth herein. At no time shall either Party represent to any third party that it is the agent of the other nor have authority to make any commitments or undertake any obligations on behalf of the other Party.

#### **17. Compliance with the Laws**

The supplier, in the performance of the Contract, undertakes to comply with all applicable laws and regulations in force, in particular with respect to food safety, health of persons, working conditions, the environment and taxation.

#### **18. Transfer and subcontracting**

The Contract is concluded "intuitu personae" and is personal to supplier. Nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever.



The Contract may not be transferred or assigned in part or in full, for payment or otherwise, by the supplier without the prior written consent of the Purchaser. The Purchaser may assign its rights or delegate its obligations under the Contract, in whole or in part, to one or more affiliated companies within the Lactalis Group.

Unless the Purchaser has expressly agreed otherwise in advance, the supplier shall not use subcontractors for the performance of all or part of the Contract.

Where subcontracting is agreed to by Purchaser, the supplier undertakes to respect all applicable legal and regulatory provisions.

### **19. Anti-corruption**

The supplier undertakes to comply in all circumstances with all applicable anti-corruption laws in the countries of execution of this Contract as well as any other laws and regulations that would apply extraterritorially.

The supplier shall ensure compliance with the provisions of this article by all its representatives, employees, subsidiaries, agents, partners, and subcontractors in the context of the performance of this Contract.

The supplier undertakes to (i) inform the Buyer in writing, as soon as it becomes aware of it, of any violation or potential violation of this article; and (ii) cooperate with the Purchaser and/or any public or administrative authority in the event of a suspected violation of this article and/or in the context of a corruption investigation.

Any violation of this article will be considered a material breach of the Contract.

### **20. Crisis Management**

In the event of a crisis situation (any situation where the Purchaser's interests may be at risk), the supplier shall immediately inform the Purchaser and provide it with all documents necessary for crisis management as requested by Purchaser. In particular, the supplier undertakes to inform the Purchaser of any defect in the delivered Products/Services at the same time as supplier informs the competent local authorities.

For crisis management, the supplier shall designate a single contact in charge of relations with the Purchaser. Under no circumstances shall the supplier be authorized to communicate externally on any element relating to this situation except to the extent required by applicable law. Any communication must be conducted with the prior written agreement and in consultation with the Purchaser.

### **21. Audit**

The Purchaser may, at its discretion, audit the manufacturing and storage sites of the supplier qualified by Purchaser in order to ensure that supplier's obligations are being performed in accordance with the Contract and all applicable laws and regulations.





It is expressly agreed that these audits shall not constitute acceptance of the Products/Services and shall not create any liability for the Purchaser with respect to the Products/Services or a waiver of the supplier's liability.

## **22. Termination**

A PO may be cancelled by the Purchaser automatically and without compensation if, after the expiration of a period of fifteen (15) calendar days following the date of remittance of a formal notice to the supplier, the PO remains partially or completely unsatisfied.

## **23. Force majeure**

If any Party is as a result of an event beyond its reasonable control unable to perform all or any part of its obligations under the Contract (and such an event shall include being unable to, in relation to the Purchaser, receive, accept or use Products) ("Force Majeure Event"), then such Party shall immediately inform the other Party and be authorized to suspend the performance of the Contract for as long as and to the extent that such Force Majeure Event continues, provided it complies with this clause.

The Party disabled by a Force Majeure Event shall use all reasonable endeavors to mitigate the effect of the Force Majeure Event in the least disruptive manner to the other Party.

The following shall not be considered as a Force Majeure Event: Transport issues, lack of raw materials, failure of mechanical equipment, computer hardware and/or telecommunications equipment, failure of software, power outages, changes in economic conditions, costs and/or delivery of raw materials, and strikes and other labor disputes with any of supplier's employees (or its affiliates or their employees).

If the force majeure event continues for more than thirty (30) consecutive calendar days, the Party other than the one directly affected may terminate the Contract with immediate effect and without liability.

## **24. No Hardship**

Except as otherwise provided in this Contract, each Party to any Contract is bound to perform its contractual duties in all circumstances, even in situation where the performance of the Contract is more onerous for reasons that could not reasonably have been anticipated at the time of the conclusion of the Contract.

## **25. Applicable law and court of competent jurisdiction**

Each Contract (including the PO) shall be governed by the laws of the country where the Purchaser is registered, excluding its rules on conflicts of laws. It is expressly agreed between the Parties that the provisions of the Vienna Convention of April 11, 1980, on international sales of goods shall not apply to this Contract nor to any PO.

All disputes relating to the Contract (including the PO) will be finally settled by the competent courts located in the jurisdiction in which the Purchaser's registered office is located, even where more than one defendant is involved, or third parties have been joined. For Purchasers located in the United States, the laws of the state of Delaware shall govern, and any legal action or proceeding arising out of or relating to the Contract or any PO will be brought exclusively in any state or federal court located in Delaware, and



each Party irrevocably submits to the sole and exclusive jurisdiction of these courts in any action or proceeding.