

Terms of Purchase

1. Purchase orders and agreements shall only be binding for Nestlé Group members in Austria if we issue or confirm them in undersigned writing. Divergent sales conditions will not be recognized by us. Different verbal or agreements appointed by telephone need a written approval to enter force (e.g. SAP Purchase Order).
 2. Taking this order you guarantee us
 1. Raw- and packing materials are complying to the regulations of the Austrian Food Safety and Consumer Act – LMSVG 2006 and the correlating EU-Directives.
 2. Packaging materials comply the above mentioned laws and must be suitable for foodstuff packing.
 - 2.1. Plastic containers and laminates must be suitable for direct contact with dry, humid and fat-liquoring and fatty foodstuffs.
 - 2.2. Paper, Cardboard and Cartons:
All materials used, productions aids and finishing agents must comply to the Austrian Food Safety and Consumer Act – LMSVG 2006 and the correlating EU-Directives and must be harmless and suitable for foodstuff packing.
If a defect is discovered, we shall be free to demand either rectification of the defect or delivery of a fault-free product even before the grace period granted by us has expired. In all cases, we reserve the right to make claims for damages on grounds of breach of duty
 3. All documents (delivery note, invoice, acknowledgement, etc.) and correspondence has to show our purchase order- and vendor-number – this facilitates invoice management and speeds up payment.
 4. Deliveries have to be accompanied by a delivery note showing our purchase order. All deliveries are to be announced our goods receiving plant with information on quantity and delivery date.
 5. Orders for drafts, layouts and artworks include also the copyrights and the designs become property of Nestlé.
 6. Printing plates, films and lithos or tools necessary for production are charged to Nestlé to primary costs and become property of Nestlé.
 7. Unless otherwise agreed under- and over-deliveries are accepted only up to / below max. 5 % of the ordered quantity. Printed matter is paid in case of over-delivery only to with the additional printing costs.
 8. Every parcel of printed material has to be signed on two sides with material-name, number or reference, PO-number and content. Packaging material must be strong enough to resist shipping and transshipping. Imprints, vendor signs and other than the mentioned declaration must not be used.
 9. Direct deliveries, other than normal mail or rail, have to be dropped off at the designated receiving points in our plants during the normal business hours. In case of confusion about times and places the deliveryman has to contact us in advance.
 10. All additional costs and disadvantages coming from wrong deliveries or disregard of a. m. instructions are accounted at the expense of the supplier. In case of divergent deliveries (differing from sample), we are in favor to reject and leave goods at your further disposal on your account. This is also valid for deliveries to third parties that we indicate in our PO. Deliveries not complying to those directives we only acknowledge a debt after thoroughly inspection and release from authorized personal. Goods receipt always is subject to verification. We respect time limits for claims and refusals regulated by law. Payments prior releases of goods are not in recognition of contractual delivery.
 11. The supplier is also accountable for consequential loss resulting from deviations in specification or provided characteristic. Nestlé may not be held accountable to check and prove that the delivered goods are complying the characteristic stated in the specification.
 12. If fixed deadlines are not met we can rescind the contract or make a claim for damages on the ground of breach of duty if the statutory requirements for taking such action are met. The statutory conditions shall also apply. The supplier must inform us immediately if he becomes aware of factors which could delay delivery. The specified information and identification codes must be given in all deliveries. If this requirement is not complied with, we shall be entitled to reject the delivery. This shall also apply to deliveries to a third-party recipient designated by us.
 13. Place of performance for the deliveries and services shall be the reception point specified by us.
 14. Payment shall be effected within 30 days with a 3 % discount or net within 60 days. Place of payment shall be Vienna. The payment period shall begin when the invoice is received (at the earliest) but not before receipt of the ordered goods. Invoices must always include the order number issued by us at the time of order otherwise the period allowed for payment will not be initiated. Prices are net prices without tax plus VAT.
 15. Accepting that purchase order the supplier explicit takes over the liability for all outcomes and consequential losses resulting from eventual violations of industrial property and similar rights of third parties and violations of the supplier against other compulsory or contractual clauses to authorities or third parties. The supplier takes over the full accountability for disputes on patent rights adverse third parties.
- 15.1. It is agreed upon acceptance of this order that all industrial property and similar rights the supplier may be entitled in this case devolve to us.
 - 15.2. The supplier pledges himself to preserve silence upon our purchase orders against third parties and in particular - without our accordance - not to share knowledge about complexity and character of delivered goods and services and the usage of that.
16. It is explicitly agreed that all receivables from deliveries to us will not be subject to subrogation to third parties. It is prohibited to the supplier to cede his claims to third parties. This ban on cession is valid as well for all sister- daughter and parent-companies within the group of companies. We are entitled to make payments with debt-discharging effect exclusively to the supplier.
 17. To the acknowledgment eventually attached 'terms of delivery' will have no validity. On disagreement of the supplier to one or all clauses of that terms of purchase this purchase order is seen as declined, as far as not other circumstances devote contrary meanings. Although if this order is performed that means acceptance of our terms of purchase.
 18. References to an offer are only for administrative execution and will not lead to inclusion of the offer into the contract. The content of the contract is defined by referenced or attached documents, our specification and the term of purchase.
 19. All deliveries have to be dispatched according our shipping instructions.
 20. If products are delivered on pallets, only replaceable Euro pallets in perfect condition must be used. If we discover damaged pallets while processing the goods, we shall be entitled to charge these at the current replacement value. Deliveries may only be made on disposable or special pallets if we have expressly approved this in advance. Every single case has to show a clear declaration notice, containing addressee, product, weight and content and purchase order number.
 21. By way of lending of packaging we ask to mention that circumstance on delivery note and offer. If this indication is not mentioned, we cannot be held liable for return of this packaging and we will not accept debts from this title. Return of packaging always will be ex works.
 22. Product liability
 - 22.1. Preface:
The supplier declares to know the finished product in which his part or base product shall be integrated. He is liable that his product meets completely the requirements of the end product.
Shall we be liable due to a fault of the contractual part or sub product the supplier pledges him – besides the legal liability – to refund all costs which will appear out of our liability. The supplier commits to share all information about possible or newly discovered defects of the contracted product immediately.
The contractual partners emanate that the contractual product or sub product is produced by the supplier for which he is liable as producer. In case that it turns out that the product or parts of that are not produced by the supplier, he pledges himself to act as the producer.
The contractual partners agree upon that the supplier will be liable also for all consequential losses. Contrary clauses or announcements will be invalid.
 - 22.2. Extension of the liability with foreign suppliers.
in case of laying claims of product liability, the supplier commits to accomplish full regress, that means also to compensate all efforts and costs which we have to pay on dispatch of faulty end products even though if the state law other than the Austrian law does not support the claim, or not in this extend.
The supplier acknowledges the extended product liability of the Austrian law. He also takes note that not only personal injury but also compensation for pain and suffering and all material damages are to be compensated, regardless who suffers them.
The contractual partners explicitly agree upon the competent and local Austrian court. Austrian law shall apply. If referenced to foreign law anyhow Austria material law and product liability law shall apply.
 23. Place of jurisdiction shall be Vienna, Austria.
 24. The supplier commits itself to observe Art. 138 of the ILO convention (International Labor Organization) regarding the minimum age of employees and the convention of the United Nations on the Children's Rights respectively more restrictive regulations in local law. Violation against this regulation has the consequence of deletion from the supplier list. Furthermore we reserve the right of compensation.

¹ SAP-Purchase Orders are electronically released – no manual signature is necessary – name of approver and approval date are mentioned on the document.