

# GENERAL TERMS AND CONDITIONS

## BeverageScouts production & development GmbH

### 1. VALIDITY OF TERMS AND CONDITIONS

The following terms and conditions shall apply exclusively to all transactions concluded with BEVERAGESCOUTS PRODUCTION & DEVELOPMENT GMBH (hereinafter also referred to as "BSC"). These terms and conditions shall be deemed accepted at the latest upon submission or acceptance of an order.

Agreements to the contrary shall only be binding for BSC if they have been accepted in writing (email shall not suffice).

Any amendment of these terms and conditions and/or notifications in this respect must be agreed in writing with or addressed to the management of BSC (email shall not suffice).

### 2. OFFER AND CONTRACT

Offers made by BSC are subject to alteration and non-binding. Declarations of acceptance and all orders of a customer/orderer requires written or telex confirmation by BSC in (email is sufficient) in order to be legally effective. In this case, BSC shall issue an order confirmation and, after written or telex confirmation by the customer/orderer (email suffices), an advance payment invoice for the agreed down payment. Unless otherwise agreed, a down payment of 100% of the amount stated in the order confirmation shall be deemed to have been agreed. The content of the order confirmation shall be deemed accepted if no objections are raised within 5 working days or if the payment shown in the advance payment invoice is made. In the case of contract conclusion, the customer/orderer is obliged to ensure BSC is provided with an up-to-date email address for communication purposes.

BSC shall inform the customer/orderer of the planned production date. Changes to the order by the customer/orderer after BSC has communicated the production date shall only be possible with the written consent of BSC. Any changes to the order by the customer/orderer after the start of production of the goods concerned shall be excluded. Should the customer/orderer change the order after BSC has communicated the production date and this change is later than 6 weeks (i.e., 6 full calendar weeks before the planned start of production must be available to BSC; public holidays do not extend the deadline, but rather must be taken into account in such a way that a corresponding notification must be sent the day before the public holiday) before the start of production of the goods concerned, the customer/orderer must request a change to the order in writing (email is not sufficient), and/or production is not possible for reasons for which the customer/orderer is solely responsible, the customer/orderer must bear the associated costs, which are fixed by mutual agreement at EUR 1.950.00 per hour or part thereof of the training run, or EUR 2.34/24 tray (plus VAT in each case) and shall be borne by the customer/orderer to the full extent of the total production costs and/or loss of production. In this case, BSC shall not be obligated to minimise losses, particularly to ensure that the production line/production is otherwise utilised and shall be released from the obligation to provide evidence in this regard.

### 3. PRICES AND DELIVERY

The prices stated in the order confirmation plus any statutory value added tax shall be decisive. The prices are free ex-works A-2020 Hollabrunn. Delivery shall be ex-works on the date notified by BSC to the customer/orderer in due time (usually at least 5 working days in advance). For production-related reasons, over- or under-deliveries of up to ten percent of the ordered quantity may occur; this applies to both goods and empty can bodies. Only the quantity actually delivered/produced shall be invoiced.

Delivery shall be made in a timely manner by provision ex works on the date communicated by BSC to the customer/orderer (typically at least 5 working days beforehand), whereby the loading of the goods shall be the sole responsibility of the customer/orderer. The customer/orderer shall be obligated to provide necessary loading aids. Delivery to the customer/orderer requires a separate written agreement. All costs for the type of shipment requested by or agreed with the customer/orderer shall be borne by the customer/orderer (freight, customs duties, etc.). If the goods are shipped to the customer/orderer at the latter's request, risk and contingencies shall pass to the customer/orderer at the time of handover to the company commissioned with the shipment, irrespective of who commissioned the company commissioned with the shipment. Insofar and to the extent that the customer/orderer has not fully complied with any payment obligations towards BSC, BSC shall be entitled to refuse the delivery of goods.

#### PROVISIONS

Provisions of the customer/orderer which have exceeded the specified best-before date shall neither be stored nor processed by BSC. BSC shall be entitled to dispose of any ingredients provided by the customer/orderer after the expiry of their best-before date without further consultation with the customer/orderer. Any expenses shall be borne by the customer/orderer. In the case of supplies by the customer/orderer in opened containers or in the case of frozen raw materials whose cold chain has been interrupted, the above shall apply even before the specified best-before date has been reached.

#### GOODS

If the customer/orderer fails to collect the goods provided within 14 days (default in acceptance), BSC shall be entitled to charge storage costs per cubic metre or part thereof and per week or part thereof of default in acceptance and to retain the goods until the storage charge has been rectified. The exact conditions shall be notified to the customer/orderer by BSC in the event (email suffices).

If the customer/orderer fails to collect the goods despite a grace period (email suffices) of one month, BSC shall be entitled to dispose of the goods at the customer's/orderer's expense. Payment obligations of the customer/orderer shall remain unaffected by this. In the case of secondary packaging (trays, labels, sleeves, displays, etc.), the above shall apply mutatis mutandis.

Consequent to failure to collect the goods, the customer/orderer waives their title to the goods concerned.

#### EMPTY CAN BODIES

If the customer/orderer orders empty can bodies, BSC may agree to store these for the customer/orderer for a maximum of 6 months from the production date of the empty can bodies. The customer/orderer shall instruct BSC to fill the stored empty can bodies within this period. In the case of failure to do so, BSC shall be entitled to have stored empty can bodies disposed of at the customer's/orderer's expense after the expiry of 6 months from the production date of the empty can bodies without the setting of a grace period.

By failing to commission the filling of stored empty can bodies, the customer/orderer waives their ownership of the empty can bodies concerned and BSC shall be free to acquire ownership through seizure thereof.

BSC shall issue an invoice for the goods and/or empty can bodies, which shall be paid by the customer/orderer in any case. Should the customer/orderer fail to collect goods and/or empty can bodies ordered in accordance with the provisions of these GTC in due time, BSC shall be entitled to dispose of the goods and/or empty can bodies at the customer's/orderer's expense as shown below

### 3.1. INTERNATIONAL DELIVERIES

Should the customer/orderer orders goods and/or empty can bodies from BSC in advance for future further processing by BSC, and these are temporarily stored at BSC for more than 1 month, BSC shall be entitled under Austrian tax law to charge the customer/orderer the Austrian turnover tax due on these items.

If BSC has acquired ownership of the goods and/or empty can bodies concerned in accordance with the provisions under this agreement, BSC shall be entitled to dispose of goods and/or empty can bodies ordered by the customer/orderer due to default on the part of the latter. In this case, the costs charged by BSC to the customer/orderer for the procurement/provision of these goods/empty can bodies shall be deemed genuine and therefore VAT-exempt compensation, as no exchange of services took place. Should a tax office nevertheless determine a turnover tax liability from and in connection with this procurement/provision of these goods/empty can bodies, the customer/orderer shall also owe BSC this turnover tax.

### 4. PERIOD OF DELIVERY

Delivery dates and delivery periods shall only be binding if they are confirmed in writing in the order confirmation. Delivery times shall be extended by their entire duration if

a) provisions provided by the customer are incomplete and/or not received by the agreed date (print data, recipes, ingredients, etc.) and/or

b) in the case of packaging design on the part of BSC, the drafts or galley proofs are not released/confirmed by the customer/orderer in due time, and/or

c) the customer/orderer fails to meet other obligations (acceptance of samples, preparations, etc.) in due time.

Any changes deviating from the order shall require written confirmation by BSC and shall put a new delivery date into effect.

In cases of force majeure as well as events which make production considerably more difficult or impossible, BSC shall be entitled to postpone deliveries for the duration of the hindrance or indeed to withdraw from the Contract. Claims for damages of any kind in this respect are excluded. Any delivery period shall be determined by the timely deposit of the corresponding payment by the customer/orderer.

### 5. COPYRIGHT AND OTHER RIGHTS, BUSINESS SECRETS, PROVISION OF MATERIALS

All rights (in particular ownership and intellectual property rights) to sketches, drafts, logos, recipes, (taste) samples provided and/or produced by BSC as well as materials and films required for the production of products, etc., shall remain solely with BSC. This shall also apply in the case of separate pro rata billing of the costs incurred for this (e.g. development costs). In any case, BSC shall be entitled to invoice the costs for product development (sketches, drafts, trial samples, recipe development, etc.).

The customer/orderer is obliged to personally check ordered motifs, fonts, drawings or logos in regard to any possible infringement of third party rights. They shall indemnify BSC against any claims for damages by third parties.

Recipes developed by BSC constitute trade secrets of BSC. BSC is not obliged to disclose the exact recipe, regardless of whether development costs were borne in whole or in part by the customer/orderer. However, BSC undertakes to supply the product based on a recipe developed by BSC at standard market conditions.

Documents provided by the customer/orderer shall only be stored and returned by BSC if this was agreed in writing upon handover.

With regard to the goods ordered and provided by the customer/orderer and the marks (logos, registered designs, etc.) and product descriptions used by the customer/orderer, the customer/orderer undertakes to indemnify and hold BSC completely harmless in the event of any allegations of imitation or infringements of other rights of any kind. This in particular in the event of infringements of trademark rights, design rights, patent rights and intellectual property rights of any kind or the like. Should BSC become aware of any infringement of existing patent rights or intellectual property rights of any kind or the like before the customer/orderer, BSC shall be entitled to postpone production for the duration of the clarification or to withdraw from the Contract. Claims for damages of any kind in this respect are excluded. Payment obligations of the customer/orderer shall remain unaffected. In the event of breaches of competition, the above shall apply mutatis mutandis.

### 6. LIABILITY, LUMP SUM COMPENSATION FOR DAMAGE AND WARRANTY RESTRICTIONS

The liability for damages demonstrably caused by BSC - with the exception of personal injury - shall be limited to 10% of the order amount. The liability of BSC for negligence as well as for consequential harm caused by a defect, indirect damage and financial loss - with the exception of personal injury - shall be excluded. BSC's liability shall, regardless, be limited to compensation for the usually foreseeable damage.

**If the customer/orderer provides BSC with ingredients the value of which exceeds 10% of the order amount, BSC shall be demonstrably informed of this circumstance in writing in advance for the attention of the management (email is not sufficient). Failure to do so will release BSC - including within the framework of the warranty - from the replacement of ingredients of higher value. The same shall apply if the customer/orderer provides BSC with higher-quality containers.**

Liability for damages beyond this is excluded by mutual agreement.

## 7. WARRANTY AND RETURNING GOODS

The customer/orderer is obliged to check the quality and quantity of the delivered goods immediately upon acceptance. The delivery shall be deemed to have been approved if there is no defect notification in writing within 3 days, giving full details of the defects.

All products purchased by the customer/orderer from BSC must be stored at room temperature (15° - 25° C or 59° - 77° F) in accordance with the IFS Food Standard in a cool and dry place, and/or in accordance with the storage conditions recommended by BSC.

In the event of defects, BSC shall be entitled, at its own discretion, to reduce the price or to make a replacement delivery. Claims for defects expressly do not exist in the case of only insignificant deviations from the agreed quality or usability or in the case of natural wear and tear. Furthermore, any claims are excluded if the goods are changed, rendered unusable or damaged due to incorrect storage, improper handling, excessive use, unsuitable equipment or due to special influences or changes by the customer/orderer or third parties. If the goods are collected by a representative of the customer/orderer (forwarding agent, etc.), the latter shall be obliged to inspect the goods upon acceptance. This shall also apply in the event that the goods are shipped at the request of the customer/orderer. In this context, BSC recommends that the goods be checked for transport damage/completeness immediately upon acceptance by a transport company and that any transport damage/shortages be reported to the transport company immediately upon acceptance. Since BSC only arranges for deliveries to the customer/orderer at the latter's request, BSC shall not be liable for transport damage/shortfalls, reason for which any claims for damages are to be asserted against the transport company.

It is pointed out that in the event of transport damage (leakage of a beverage container) the entire tray must be disposed of without exception.

Should the customer/orderer assert warranty claims, the customer/orderer shall be obligated to (continue to) store the applicable goods properly. The warranty is excluded in all instances of damage caused by improper storage on the part of the customer/orderer.

In the event of justified warranty claims, BSC shall have the option of (i) improvement (particularly in instances of packaging defects), and/or (ii) subsequent and/or replacement delivery, or (iii) granting of a price reduction, particularly if improvement and/or replacement/exchange are not possible or appear uneconomical. The warranty remedies may also be invoked in parallel.

The place of performance for any warranty claims is the place of delivery/provision. (This is generally the registered office of BSC in accordance with Section 3). In the case of agreed provision by the respective producer ex works (in accordance with Incoterm EXW), this shall be the place of delivery.

If BSC has arranged for delivery to the customer/orderer at the latter's request and expense, the place of performance shall also be the registered office of BSC in 2020 Hollabrunn.

If the place of performance of the delivery and thus the warranty differs from the BSC location as the result of an express, separate, and written agreement and BSC wishes to reclaim goods, the customer/orderer must provide the goods affected by this in such a manner that the place of provision is freely accessible for articulated lorries and loading onto articulated lorries (generally not equipped with loading aids such as cranes or lifting platforms) and is possible without the use of aids (forklift trucks, etc.). Alternatively, the customer/orderer shall be free to provide appropriate loading aids together with their own authorised personnel. For the sake of clarity, it is expressly stated that onward shipment of the goods shall be exclusively at the risk of the customer/orderer and shall not alter the place of performance described above.

The warranty for beverage cans is limited to 12 months from the date of filling due to the specifications of the manufacturer of the cans. This solely concerns the general technical suitability of these containers, not the best-before date of the finished product (= can contents), which must be agreed individually.

## 8. RETENTION OF OWNERSHIP

The delivered goods shall remain the property of BSC until payment has been received in full as well as until all claims to which BSC is entitled against the customer/orderer arising from the business relationship have been settled. Claims arising from the resale of goods delivered despite existing payment arrears are already now assigned to BSC. At the request of BSC, the customer/orderer shall inform their buyer(s) of the assignment and request them to make payment only to BSC. If the value of the securities existing for BSC exceeds its claims by more than 50%, BSC shall be prepared, at the customer's request, to release a corresponding part of the security interest.

## 9. PASSING OF RISK

Risk and contingencies shall pass to the customer/orderer upon handover or at the time of the stipulated handover (default of acceptance). If the delivery is made at the request/order of the customer/orderer by handing over to a third party (forwarding agent, etc.), the risk and contingencies shall pass to the customer/orderer upon handover to this third party.

## 10. PAYMENT

Unless otherwise agreed, a down payment of 100 % of the sum stated in the order confirmation shall be deemed to have been agreed. If BSC commences production before receipt of payment, this shall not affect the customer's/orderer's obligation to pay.

## 11. SETTING OFF AND RETENTION

The customer/orderer may only set off or exercise a right of retention against claims of BSC if their counterclaim has been acknowledged in writing by BSC or has been legally established. Claims arising from this Contract may not be assigned by the customer/orderer without the prior written consent of BSC.

## 12. PLACE OF PERFORMANCE, CHOICE OF LAW, JURISDICTION, OTHER

Place of performance shall be the registered office of BSC in A-2020 Hollabrunn. The place of jurisdiction for all disputes arising from this contractual relationship shall be, to the extent permitted by law, the competent court with local jurisdiction for 2020 Hollabrunn.

This agreement shall be governed by Austrian law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention) and any European Sales Convention.

Unless otherwise provided for in this Agreement, claims of the customer/orderer under any title whatsoever shall become statute-barred within one year, unless mandatory law provides otherwise. In any case, the shortest possible limitation period shall be deemed agreed.

Unless otherwise expressly stipulated in this contract, a communication via email is deemed sufficient for the written form of declarations.

Should one or more provisions of these terms and conditions be or become invalid, this shall not affect the validity of the remaining provisions or agreement.