

# General Purchasing Conditions (Goods and Services)

Version 1.1, 12-08-2020

## 1. Definitions

'We', 'Us', 'LWM' and 'Our' means Lamb-Weston/Meijer UK Limited, Wesenham Lane, Wisbech, Cambridgeshire, PE13 2RN (company number 02582604) ;

'You' and 'Your' and 'Supplier' means any person or company (including their employees, subsidiaries and sub-contractors) who supplies Goods and/or Services to us;

'Party' means either us or you;

'Goods' means the products, materials and/or articles (including their packaging) described in the Contract;

'Services' means the works described in the Contract;

'Contract' means the agreement between you and us for the supply of Goods, or the performance of Services, by you to us in accordance with any purchase order issued by us and accepted by you, including any agreed changes and documentation thereto;

'GPC' means these General Purchasing Conditions (Goods and Services).

## 2. The Contract

All our purchases of Goods and Services shall be governed by the applicable Contract and these GPC, and we hereby exclude explicitly any general conditions of sale used by you or referred to by you in any correspondence or documentation. The supply of Goods or commencement of Services in response to a purchase order issued by us implies your acceptance of the GPC. You shall always remain responsible for the management, supervision, proper instruction and safety of any of your employees and subcontractors working on our premises. This responsibility includes inspection of equipment, also in case this equipment is provided by us.

## 3. Price and Price adjustment

You will supply the Goods and Services at the firm and fixed price stated in the Contract. Unless expressly agreed otherwise in the Contract, the price shall be in Euro or GBP and includes storage, packing, insurance, delivery Duty Paid (DDP, Incoterms 2020), installation and commissioning (all as applicable) and excludes VAT which we shall be additionally liable to pay to you at the prevailing rate subject to a receipt of a valid VAT invoice.

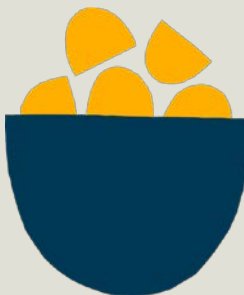
## 4. Delivery, Performance, Property and Risk

The Goods shall be properly packed, secured and dispatched at your expense to arrive in good condition at the time and place specified in the Contract. Delivery takes place Delivery Duty Paid (DDP), unloaded on the agreed place of delivery, based on Incoterms 2020. Subject to clauses 5 and 6, title and risk in the delivered Goods shall pass to us when the Goods have been unloaded to us and accepted by us, and without prejudice to our right of rejection of the Goods. You shall bear all risks of loss or damage to the Goods, whether or not during transport, until they have been accepted by us and you shall insure yourself accordingly. You shall maintain manufacturing records for at least two (2) years from the date of delivery and we shall have access to such records upon reasonable prior notice. All materials, supplies or equipment furnished or paid for by us in connection with the Contract shall remain our property (title shall not transfer to you), shall be maintained by you in good condition, shall be used by you only for us in accordance with the Contract and shall be returned to us or otherwise disposed of as directed by us upon completion of the Contract.

## 5. Acceptance and Rejection

Neither the actual receipt of Goods and Services, nor our payment of any invoice shall be considered as acceptance of any Goods or Services. We shall have the right to reject any Goods or Services, wholly or partially, within a reasonable period after their delivery or performance if they do not conform to the requirements of the Contract or to the requirements with which they should reasonably comply. In case of any hidden defects, this reasonable period of time shall start once we have become aware of such defect. You must collect rejected Goods within a reasonable time as specified by us, or we shall return them to you at your risk and expense.

Additional work performed without our explicit written approval shall not be accepted.



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## 6. Quality, Identification, Inspection

You must ensure that all Goods and Services conform in every respect with the provisions and specifications mentioned in the Contract. Goods must be of merchantable quality and fit for the purpose for which we intend to use the Goods. Services must be at least performed diligently in a good and workmanlike manner by qualified personnel to the highest professional standards. You must comply with all applicable laws, including but not limited to (inter-) national legislation and regulations, for example -but not only- in relation to health, safety, hygiene, environment and food, and observe our instructions and policies thereto. You shall ensure that all Goods and packaging comply with our instructions in respect to their identification and traceability. You shall ensure that all labels and instructions are clearly visible, readable and in compliance with the applicable rules, regulations and such additional requirements as specified by us. You shall immediately notify us of any potential, alleged or actual violations of any laws or regulations.

We reserve the right to inspect all Goods prior to their shipment, for this purpose you shall permit us to have access to your facilities at all reasonable hours and shall provide reasonable space and assistance for the safety and convenience of our employees. At the time of inspection, you shall make available copies of all relevant drawings, specifications, and other technical data. All Goods shall nevertheless be received subject to final inspection and approval by us after delivery.

We reserve the right to perform an audit at your place of business or to have such audit performed by a third party.

## 7. Ownership of results and Infringement of patents

If the Contract involves design or development work which you deliver to us under the Contract, you shall assign to us absolutely with full title guarantee all proprietary rights in any such deliverables, including all existing and future intellectual property rights in and to such deliverables. You agree to do all acts necessary to confirm that absolute title in all intellectual property rights in the deliverables has passed, or will pass, to us. You shall waive any moral rights in the deliverables to which you are now or may at any future time be entitled under applicable laws. We shall have the sole right to determine

whether any protection by means of patents, registration of designs, trademarks or otherwise shall be sought. You warrant that the Goods and our normal use of them will not infringe any third party intellectual property right, including without limitation, any patent, registered design, trademark, copyright, or any other protected right, and you shall indemnify us against all actions, claims, demands, costs and expenses arising from or incurred by such infringement or alleged infringement.

## 8. Access, Security, Safety and Product Recall

You shall implement and administer food safety, environmental, health and safety procedures for the work on our premises consistent with the then current instructions, house rules and QESH manual of us and with all applicable food safety, environmental, health, working hours and safety laws, rules, regulations and orders. This includes but is not limited to you being able to demonstrate immediately on request that you and/or the persons working for you who have entered or are entering our premises:

- have obtained and at all times will maintain all licences, consents and permissions (statutory, regulatory, contractual or otherwise) which may be required for the provision of the Services and/or Goods; and
- shall be able to observe all health and safety rules and regulations and any other reasonable security requirements that apply at any time at any of our premises (including evidence or certification demonstrating compliance with our instructions before the commencement of any work).

We may deny any persons or may require you to have them immediately removed from our premises in accordance with our sanction policy if they fail to comply with the aforementioned obligations.

You shall take sufficient precautions for the safety of, and provide sufficient protection to prevent damage, injury or loss to: (a) persons employed by you at our premises in connection with the work and other persons at our premises who may be affected thereby; (b) supplies, materials, equipment and other components to be incorporated into our premises in storage, or under the care, custody or control of you; and (c) other property at our premises or adjacent thereto. In emergencies affecting the safety or protection of persons or the work or property at our premises, you, without special instruction or authorization from us, shall act reasonably to prevent damage, injury, or loss.



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LWM and Supplier shall comply with, and only process personal data necessary for the performance of the Contract in compliance with, all applicable data protection laws. LWM and Supplier will share the contact information of their Privacy Officer to each other. Each Party shall ensure that it puts in place appropriate technical and organisational controls to ensure that personal data is protected against unauthorised or unlawful processing and against accidental loss or destruction or damage. Each Party agrees to use its reasonable endeavours to assist the other Party in relation to any requests a Party may receive from data subjects wishing to exercise their rights under the applicable data protection laws.

You acknowledge that the Goods and Services will be used for or in connection with the production of food intended for human consumption, and that it is important that you immediately inform your LWM contact person of any defect you may discover in the Goods or Services (even after delivery to us), providing us with information and reasonable assistance as deemed relevant by us. Our products are premium brand food products. If, in our sole discretion, we believe food safety and/or our reputation is threatened, we may decide to cease the production and supply of our products, destroy any of our stock, and/or order a product recall. In so far as negligent acts on your part have contributed to the cause of the defect, you shall bear the cost incurred by us. We shall be the sole Party to inform the relevant authorities and you shall treat all information concerning the incident as confidential (in accordance with article 11 of these GPC).

## **9. Your warranty**

Notwithstanding any further rights or longer periods we may have under applicable law, it is expressly agreed between us that you shall promptly repair or replace, at your expense, any defect in the Goods or Services that we discover during the first 24 months from the date of acceptance by us. Such defects may arise from your faulty design, your erroneous instructions as to use, inadequate or faulty materials, poor workmanship, or any other breach of your obligations under the Contract or applicable law. Repairs and replacements will also be covered by the above warranty and for a period of 24 months from their acceptance by us. You will ensure that compatible spare parts are available to facilitate repairs (where applicable) for a period which is reasonable in view of the investments made by us and the normal term of use of the Goods supplied.

## **10. Invoices and Payment**

Your invoice must be submitted as a single copy, separate from any Goods or Services, comply with our invoicing instructions, at least referring to the relevant Purchase Order number and sent to [DigitallInvoicesUK@lambweston.eu](mailto:DigitallInvoicesUK@lambweston.eu). Payment by us takes place within 45 days of receipt of the applicable, accurate invoice, unless the invoice does not comply with our invoicing instructions or any packing lists or (transport-) documentation is incorrect, incomplete or missing. If we have a claim against you resulting from this Contract or any other transaction, we may deduct or set off such disputed amounts from your invoice and only authorize payment for the undisputed amounts.

## **11. Confidentiality**

You shall treat as our “Confidential Information” all non-public information provided by us, all specifications or other documents prepared by you in connection herewith, the fact that we have contracted to purchase Goods and Services from you, and all other non-public information relating to this Contract, except for information which: (a) is generally available in the public domain otherwise than arising through any breach of this provision; (b) is in your possession free of any restrictions as to its use or disclosure at the time of disclosure; (c) is acquired from a third party who did not itself obtain it under an obligation of confidentiality; or (d) is independently developed without access or reference to any information disclosed by us. Without our prior written consent, you shall not: (a) disclose any Confidential Information to any other person or entity; (b) use Confidential Information for any purpose other than as reasonably necessary to perform your obligations under this Contract; (c) announce, publicize or discuss with third parties the subject matter of this Contract; (d) include our name, service marks or trademarks in any marketing materials; or (e) disclose that we are your customer. You shall only disclose Confidential Information to: (a) those of your personnel on a strictly ‘need to know’ basis; and (b) as required by any applicable laws (provided we are given the opportunity to discuss and agree any possible limitations or restrictions on disclosure in advance to the extent permitted by applicable law). The foregoing provisions shall be subject to the terms of any other written agreement executed by each Party relating specifically to confidentiality, non-disclosure and/or publicity of the applicable Goods and Services. These obligations of confidentiality will persist for 5 years after expiry of the Contract.



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## 12. Termination

The Contract shall end after expiry of its term, or upon our written notice to you of 30 days. (“Termination for Convenience”). Notwithstanding any other provision in the Contract or these GPC, we shall be entitled to immediately terminate the Contract by written notice if you become insolvent or bankrupt (which shall mean if you have insufficient assets to discharge your debts and liabilities, and you are thereby unable to pay your debts as they fall due (in accordance with Section 123 of the Insolvency Act 1986)), make an arrangement for the benefit of creditors, suspension of payments has been granted to you, have an administrative receiver or administrator appointed, proceedings are commenced for your winding up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or if you breach any provision of the Contract, provided that where a breach is capable of remedy, you have not remedied such breach within a reasonable term (being no more than 30 days) after receipt of our notice requesting remedy. Time and dates specified in the Contract are of the essence for LWM. If any Goods or Services have not been delivered or performed by the time specified in the Contract, if any Goods have been delivered to the wrong place or if we are entitled to reject any Goods or Services, we may at our sole discretion either immediately terminate the Contract fully or partly with notice, or provide you a reasonable opportunity to repair or replace the Goods or Services with new Goods or Services that meet the contractual requirements. We are entitled to replace or repair the Goods or Services ourselves at your cost, if you will not or cannot replace or repair in a timely manner.

## 13. Force Majeure

If either Party is delayed or prevented from performing its obligations under the Contract by circumstances beyond its reasonable control (“Force Majeure Event”), it shall give written notice including full particulars to the other Party, as soon as it becomes aware of the circumstances hindering performance. Any performance obligations shall thereupon be suspended for the duration of such circumstances. If the performance cannot be completed within a reasonable time, the Contract may be terminated by the ‘other Party’ mentioned above. In that case, we shall pay you for any Goods and Services properly performed and/or accepted by us prior to the date of such termination.

## 14. Liability, Indemnity and insurance

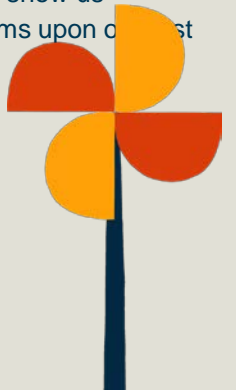
Nothing in the Contract or these GPC limits or excludes the liability for (a) death or personal injury; (b) fraud, fraudulent misstatement or fraudulent misrepresentation; or (c) any other liability which cannot be lawfully limited under applicable laws. Notwithstanding the foregoing you are liable for all damages attributable to you which we suffer due to or in connection with the execution of the Contract.

Subject to the aforesaid, you shall indemnify us against all loss, cost and expenses, which we may incur in connection with our termination of the Contract (other than for Termination for Convenience or a Force Majeure Event (as defined in clause 13 GPC)). Furthermore you shall indemnify us against all loss, actions, claims, fines, interest, insurance deductibles, demands, cost, expenses and liabilities whatsoever (if any), which we may incur in respect of:

- personal injury to (or death of) any person;
- any loss or destruction of or damage to property; or
- any other default or material breach under the Contract committed by you or your personnel.

You shall provide us with all information deemed relevant by us in this respect. This indemnification is not applicable to any default or neglect of ourselves or of any person for whom we are responsible.

You shall hold adequate insurance cover with a reputable insurer against all those risks arising from your obligations, liabilities and indemnities under these GPC, including a public liability insurance cover of at least ten million Pounds or equivalent and/or such other insurance as we shall reasonably require. You shall fulfil your insurance obligations for the duration of the Contract and show us satisfactory evidence of such insurance and of payment of the corresponding premiums upon our first request.



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## 15. Wages, Taxes & Status

The relationship of the Supplier to LWM will be that of independent contractor. Nothing in this Agreement shall render you an employee, worker, agent or partner of LWM and you shall not hold yourself out as such. No Contract shall be a contract of employment and accordingly the Supplier shall be fully responsible for and shall indemnify us for and in respect of: (a) the agreed wages to your engaged persons, statutory payments of all taxes, national insurance and social security contributions and any other liability as applicable; and (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by you against us.

## 16. Ethics

We require our employees, our suppliers and other persons we engage, to observe the highest standards in respect of integrity and ethical behavior and we also require them to ensure that working conditions throughout our supply chain are safe, that employees are treated with respect and dignity, that manufacturing processes are sustainable and that we are considered a responsible corporate citizen. We require you to comply with our Code of Conduct for Suppliers (as applicable in the United Kingdom), which can be accessed at <https://www.lambweston.eu/nl> (alternatively, a copy will be sent to you at your request).

## 17. Assignment

You may not assign or sub-contract a Contract, in whole or in part, unless you have obtained our prior written consent. This restriction shall not prevent you from purchasing materials for everyday use from third parties, with the understanding that such materials must always be of A-quality. You shall always remain responsible and fully liable in accordance with the Contract or these GPC for all Goods supplied, the Services performed by any sub-contractors and the employees engaged from sub-contractors.

## 18. General

If any part of the Contract or these GPC should be declared invalid, unlawful or void, this will not affect the enforceability of the remaining part. No addition, alteration or substitution of the Contract or these GPC will be valid until confirmed by each Party in writing. No delay in exercising or non-exercise by any Party of any of its rights under or in connection with the Contract or these GPC shall operate as a waiver of that right. Those obligations and responsibilities contained in the Contract or these GPC which are continuing in nature shall survive the expiration or termination of the Contract. In case of any conflict the English original version of these GPC will prevail over the Dutch translation, or any other translation thereof.

## 19. Governing Law and Jurisdiction

This Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

