

General Conditions of Sale and Supply (Export) of Tucher Privatbrauerei GmbH & Co. KG (TUCHER)

1) Applicability

- a) These Conditions apply to any orders placed by BUYER, unless agreed otherwise in writing. Deviating terms and conditions of BUYER are rejected.
- b) No business relationship under these Conditions, no matter how long it may last, creates any exclusivity for either party or any right for BUYER to long-term supply or for TUCHER to receive regular orders, unless agreed in writing.

2) Products and Prices

- a) TUCHER sells and BUYER purchases the products agreed between the parties ("Products") in order to sell them in the agreed country ("Territory").
- b) The prices for the Products are as agreed between the parties. TUCHER reserves the right to change the prices from time to time at its discretion.

3) Orders, Payment and Delivery

- a) When placing an order, BUYER must take into account the lead time schedule provided by TUCHER.
- b) Orders must be e-mailed to ExportOrders@tucher.de. An order is not binding until TUCHER has accepted in writing. When accepting an order, TUCHER will inform BUYER of the planned delivery date.
- c) Payment must be made by pre-payment on receipt of the pre-payment invoice, in Euros, to the bank account specified in the invoice, at least 7 calendar days before the planned delivery date. If payment has not been received on time, TUCHER can postpone the delivery date for up to 7 days. In any case, TUCHER has the right to refuse the execution of an order if pre-payment has not been received.
- d) Terms of delivery: Free Carrier (FCA) (Incoterms 2020) at the agreed place.

4) Quality

The quality of the Products will be consistent with TUCHER's product specifications. Upon delivery, BUYER will handle and store the Products in a way so as to ensure no deterioration in their quality, appearance or packaging.

5) Compliance, Labelling, Packaging

BUYER is liable for the compliance of the Products, including their labelling and packaging, with the laws and standards of the Territory.

6) Product Defect

- a) Upon delivery, BUYER will immediately check quantity, packaging and quality. If any Product is found to be defective, BUYER will inform TUCHER as soon as possible, but within 8 calendar days at the latest. The report must be sent to the e-mail-address ExportOrders@tucher.de and must include:
 - (1) documentation and evidence of the alleged defect (incl. pictures)
 - (2) type of claim or damage
 - (3) brand and stock keeping unit (SKU)
 - (4) best before date (as printed on concerned Product packaging)
 - (5) lot mark/production date
 - (6) date of delivery
 - (7) concerned amount of Products.
- b) In addition, BUYER must ensure that samples of the allegedly defective Products are kept and made available for analysis on request and stored in appropriate conditions until the procedure set out in this Section has been concluded.
- c) TUCHER will send a preliminary statement to BUYER not later than 4 weeks after receipt of the complete information of the defect. Within this period, TUCHER has the right to send someone to the relevant warehouse in order to evaluate the legitimacy of the claim. The Parties acknowledge, however, that the final assessment of the claim may take longer than 4 weeks.
- d) In the course of the claim proceeding, BUYER is obliged to comply with any reasonable instructions of TUCHER. BUYER will bear any expenses related to the examination of the allegedly defective Products, execution of laboratory analyses, certificates, statements etc. In case the defect of the Products is proved to be TUCHER's responsibility, TUCHER will compensate such expenses.
- e) In case of a dispute related to an alleged defect, an expert opinion will be obtained from the "Versuchs- und Lehranstalt für Brauerei in Berlin VLB e.V." (the Research and Teaching Institute for Brewing in Berlin) or from the Centre of Life and Food Sciences Weihenstephan of the Technical University of Munich. The costs will be borne by the party whose view is not shared by the expert or, if neither view is entirely shared by the expert, in such proportions as the expert determines. Both parties are bound by the expert opinion.
- f) Once TUCHER has accepted the claim, BUYER will destroy the defective Products according to the instructions and at the cost of TUCHER, unless agreed otherwise.
- g) If the defect was TUCHER's responsibility and the Products have been destroyed or dealt with as agreed, TUCHER will replace those Products free of cost. Alternatively, TUCHER may choose to compensate by financial equivalents.
- h) The procedure in this Section is BUYER's sole remedy for any defect (including hidden defect) in the Products.

7) Withdrawal or recall

- a) BUYER must be familiar with and comply with any legal regulations in the Territory relevant for the Products, especially those regarding food safety and consumer protection.
- b) In addition, BUYER must be aware of the competent authorities that may have to be involved in case of any potential risk of a product defect (including withdrawals or recalls) and will provide TUCHER with written information on the competent authorities (including the hierarchy and structure of the relevant authorities as well as their names and addresses).
- c) In assessing whether a withdrawal or recall is necessary, BUYER will consult closely with TUCHER, especially regarding any measures and communication with authorities, take TUCHER's advice into account and take decisions jointly with TUCHER.
- d) In case a withdrawal or recall is considered necessary, it will be conducted by BUYER who will notify TUCHER immediately and will consult closely with TUCHER regarding each individual measure and further communication with customers, authorities or the public.
- e) If a withdrawal or recall has become necessary because of a defect of the Products that one party is responsible for, that party will reimburse the other party's reasonable costs related to the withdrawal or recall.

8) Returnable Empties

- a) All returnable empties remain the property of TUCHER. They may not be used for any other products than the Products nor for any other purpose than agreed. The deposit and the replacement value are as set out by TUCHER.
- b) BUYER must return all returnable empties to TUCHER to the place of delivery at BUYER's expense at regular intervals and as soon as possible, at the latest 6 months after delivery, in undamaged and reusable condition and sorted according to type.
- c) Should the returnable empties not be returned on time or be lost or severely damaged, BUYER will compensate TUCHER by paying the amount of their replacement value (minus the paid deposit). The amount due will be calculated based on TUCHER's empties balance.

9) Intellectual Property

- a) All intellectual property rights in the Products ("IP Rights") are the property of TUCHER and all Products will be distributed by BUYER under TUCHER's trademarks and commercial names.
- b) BUYER will notify TUCHER in writing without undue delay of any attempt by any third party to use without right the IP Rights and will join with TUCHER, if required by and at the expense of TUCHER, in taking such steps as TUCHER may consider advisable.
- c) BUYER will not do anything which may adversely affect the IP Rights. Also, BUYER will not register, by itself or through any third party, within or outside the Territory, any trademark, trade name or other symbol of TUCHER, or any symbol or name that is a translation of or otherwise resembles any of TUCHER's. If any such IP Rights have been registered for BUYER or any of its related companies, BUYER will see to it that they are assigned to TUCHER.
- d) Should BUYER desire to make use of TUCHER's brand names or any of its IP Rights (including advertisements, films etc.) in the internet, especially in social media, such use is subject to TUCHER's prior written approval. In such use, BUYER will always comply with the laws of the Territory and will hold TUCHER free and harmless in case the use breaches the rights of any third party. BUYER will consult with TUCHER regularly to ensure that the use continues to be in line with TUCHER's approval.

10) Limitation of Liability

- a) The liability of TUCHER for is limited in its amount to the foreseeable typical loss. TUCHER is not liable for any loss of profit, business, production or use, or any indirect, incidental, consequential or punitive losses or damages.
- b) These limitations of liability do not apply in cases of damage caused by intent or gross negligence by TUCHER nor in cases of personal injury or death nor in cases of a violation of material contractual obligations by TUCHER nor in cases where liability cannot be limited according to mandatory law (strict liability).

11) Force Majeure

As far as and as long as a Party is wholly or partially unable to carry out its obligations due to circumstances of Force Majeure, that Party will be excused from the performance of these obligations to that extent, and the other Party will be excused from the performance of its duties accordingly.

12) Governing law, Legal redress

- a) The legal relationship between TUCHER and BUYER is governed by German law, excluding the provisions of the UN sales law (CISG).
- b) For BUYERs in the EU/EEA: The place of jurisdiction is Nuremberg, Germany. Alternatively, TUCHER may take action at BUYER's place of business. For BUYERs outside the EU/EEA: All disputes will be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) in effect at the time of arbitration. The arbitration will be conducted in Germany in the English language. There will be 3 arbitrators who will be nominated according to the DIS arbitration rules. At least the chairman of the arbitral tribunal will be a lawyer. The award of the arbitral tribunal is final and binding on the Parties.