



**Capri Sun AG • Neugasse 22 • 6300 Zug • Switzerland**  
**General Terms and Conditions of Purchase**

**1. Scope of the General Terms and Conditions of Purchase**

1.1 All orders of goods, performances and other services, placed by Capri Sun AG (hereinafter "CSAG"), are exclusively subject to the following terms and conditions, unless agreed otherwise in an individual case in written form.

1.2 These General Terms and Conditions of Purchase are valid and effective as of 1. December 2019. They are equally valid for future business transactions, even if CSAG does not explicitly refer to these terms and conditions.

1.3 In these General Terms and Conditions of Purchase, the respective business partner of CSAG shall be referred to as "Supplier", notwithstanding the nature of the respective contract and the respective status of the business relationship. CSAG and the Supplier shall be hereinafter also referred to as, individually, the "Party" and, collectively, the "Parties".

1.4 Any provisions to the contrary, as well as any deviations in the order confirmation of the Supplier will not be deemed acknowledged by CSAG, but shall only be valid and binding upon CSAG if they have been explicitly acknowledged by CSAG in written form. Notwithstanding the foregoing, the Parties agree that the valid conclusion of a contract shall not fail due to general terms and conditions which contradict each other. Insofar as conflicting general terms and conditions correspond to each other, the conforming provisions shall apply. Moreover, those terms of CSAG which correspond to non-contradicting terms of the general terms and conditions of the Supplier shall be deemed to have been agreed upon. However, those provisions of the general terms and conditions of the Supplier which do not correspond to the content of the General Terms and Conditions of CSAG, will be rejected and shall not form part of the agreement. In this and any other cases, the provisions of the Swiss Civil Code shall apply.

1.5 The fulfilment of the order by the Supplier shall be deemed as acceptance of these General Terms and Conditions of Purchase, even if the Supplier has confirmed the order with deviating terms and conditions.

1.6 The General Terms and Conditions of Purchase shall be an integral part of the respective contract and order, it being understood that for the purpose hereof reference to the General Terms and Conditions of Purchase shall include any contracts and/or orders between CSAG and the Supplier.

**2. Order and Contract Conclusion**

2.1 CSAG's orders shall be legally binding only to the extent placed in written form. Verbal orders, changes or amendments to the order shall be binding subject to being confirmed by CSAG in written form.

2.2 The drawing(s) and technical data sheet(s) on which the Parties have agreed, including tolerance specifications, shall be binding.

2.3 CSAG shall not be bound by obvious errors, typographical and computational errors in the documentation, which CSAG has provided. The Supplier is obliged to review the provided documentation and notify CSAG of such errors, so that the order can be corrected and renewed by CSAG. This shall also apply to missing documentation.

2.4 If the order is preceded by an inquiry by CSAG and an individual offer by the Supplier, the Supplier guarantees that the goods and/or services described in the offer correspond exactly to the requested quantity and quality. In case of any deviations, the Supplier must have indicated in the offer any said deviations from the inquiry by providing an explicit written note.

2.5 The Supplier shall be deemed to have accepted these General Terms and Conditions of Purchase either explicitly by a written statement or implicitly by complete or partial fulfilment of the order.

2.6 The Supplier guarantees that the goods and/or services comply with all applicable laws and regulations, the contractual agreements and all specifications of CSAG and that the technical material is compliant with the latest state of the art.

**3. Special Requirements on Foods and Consumer Goods**

3.1 For foods, the Supplier guarantees that the goods comply with all applicable laws and regulations of European food law, in addition to the regulation in Article 2.6.

3.2 Additives permitted by applicable law and substances which are equivalent to such additives according to the EU purity criteria, regardless of whether they are subject to compulsory labelling or not, may only be contained in the ordered goods, if CSAG has been previously informed by the Supplier about them and has declared its prior written consent. The receipt of the goods by CSAG will not be deemed as a declaration of consent.

3.3 For consumer goods, i.e. goods that are intended for use in the production, treatment, placement on the market or consumption of foods, and come into contact with foods or have an impact on them, the

Supplier guarantees that only substances and/or materials which are physiologically harmless according to the latest scientific findings will be used for the production of such goods.

3.4 If any prohibited substances are revealed during the inspection, the regulations in Articles 8 and 10 shall apply.

3.5 The Supplier guarantees that the delivered goods, their preliminary products and/or technical additives used during the production contain neither genetically modified proteins nor genetically modified DNA, and that this will be checked and proven regularly using scientifically recognised procedures. This shall also apply accordingly to any used additives and aromas.

3.6 The goods delivered must be clearly labelled in accordance with applicable legal provisions of the European Union. Additives and aromas will also be included in the labelling.

**4. Invoicing, Pricing and Taxes**

4.1 The Supplier shall submit an invoice to CSAG that complies with all legal requirements, for the goods supplied and/or for the services rendered.

4.2 Invoices shall be sent in duplicate after performance of the services / after shipment, separately from the goods or at CSAG's request, by e-mail, to a specific invoice e-mail address, which CSAG has provided.

4.3 No accounting via credit procedure (so called self-billing) shall be allowed, unless otherwise agreed in writing.

4.4 Only the agreed price according to CSAG's order shall be binding and shall prevail over any Supplier's pricelist or invoice price. Prices include applicable fees, taxes (excluding VAT), duties, levies, commissions and other charges, unless otherwise agreed in writing.

4.5 In the event of a subsequent reduction of the agreed price, the Supplier is obliged to issue an invoice or credit note that complies with all legal requirements.

4.6 CSAG accepts VAT amounts subsequently invoiced by the Supplier only to the extent that CSAG is able to assert these VAT amounts at the relevant tax authority on the basis of applicable statutory laws and provisions and that CSAG actually receives a tax refund. Payment to the Supplier does not take place before CSAG has received the tax refund by the tax authority.

4.7 If agreed that the Supplier clears the goods for export, the Supplier is obliged to provide CSAG with the relevant Export Notice ("Ausgangsvermerk") or with other VAT relevant documents shortly upon dispatch of the respective delivery.

**5. Delivery Period**

5.1 The agreed delivery/performance periods or delivery/performance dates shall always be binding. Time, whenever mentioned, shall be of the essence for the purposes of these General Terms and Conditions of Purchase, both as regards the dates and periods specifically mentioned and as to any dates and periods as may be agreed in writing between the Parties.

5.2 For goods, the Parties shall agree on a specific delivery date(s).

5.3 For services, performance periods/dates shall run from the date of the order. Alternatively the Parties may agree on a specific performance period(s)/date(s).

5.4 Within the delivery period/on the delivery date, the goods must have been delivered by the Supplier and received at the place of receipt specified by CSAG.

5.5 Within the performance period / on the performance date, the services must have been provided by the Supplier to CSAG.

5.6 Without prejudice to Articles 8 and 11, in case of imminent delays in delivery/performance the Supplier shall notify CSAG without delay and obtain CSAG's decision about maintaining the order.

5.7 For cross-border deliveries, the Supplier must confirm compliance with the delivery date to CSAG, in any case, fourteen (14) days prior to expiry of the delivery date.

5.8 If the order does not provide for a final term of delivery/performance, then CSAG shall be entitled to either claim fulfilment and compensation for damages due to late delivery after setting a maximum grace period of ten (10) days, or claim compensation for damages due to the non-performance or terminate the contract.

5.9 Partial rendering of services and/or deliveries does not terminate the default. In case of defective, incorrect or late delivery, CSAG will be entitled to obtain replacement services and/or deliveries from a third party supplier and the Supplier shall indemnify and hold harmless CSAG from and against any costs (including the difference between the agreed price and the higher price paid by CSAG to a third party supplier) incurred to purchase the goods or to render the services elsewhere. The foregoing shall apply without prejudice to any further claims for damages.

**6. Delivery Documents**

6.1 Each shipment shall include a duplicate delivery note with gross, tare and net weight. For imports, the required documentation must be provided along with the goods.



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6.2 The full order number and the order date must be stated on invoices, delivery notes and in all correspondence.

6.3 If CSAG requests shipping notifications, these must be delivered by the Supplier to CSAG prior to the dispatch date of the delivery.

6.4 Where countries of origin or delivery of the goods deviate from the contract or in case of non-timely, incomplete or incorrectly issued documents, CSAG shall be entitled to refuse acceptance, without prejudice to CSAG's rights under Articles 8 and 11.

### **7. Delivery and Transfer of Risk**

7.1 All deliveries will be made in accordance with the applicable Incoterms 2020 specified in the respective order and/or pricelist.

7.2 Any extra costs incurred by the Supplier in order to meet the delivery date, even where unexpected or arising on an urgent basis, shall be borne by the Supplier.

### **8. Defective / Incorrect / Late Delivery**

The Supplier shall indemnify and hold harmless CSAG from and against any direct and indirect costs, losses, damages, and expenses incurred by CSAG due to defective, incorrect and/or late delivery. This shall also apply in case of delivery to a third party specified by CSAG as the recipient.

### **9. Accident Prevention**

9.1 Machineries, systems and other technical devices used by the Supplier in the production of goods, any performance or in the supply of any other services shall be in compliance with all applicable laws and regulations, including the latest health and safety laws and regulations regarding accident prevention at the workplace.

9.2 For installation works and/or services at CSAG's site, the Supplier will comply with CSAG's special factory regulations, in addition to the regulations in Article 9.1.

### **10. Inspection and Claims for Defects; Product Liability**

10.1 The receipt of the goods by CSAG shall not qualify as acceptance of any defects, known or unknown, including without limitation in case the random check performed within the context of the goods inward inspection did not reveal any defects. Obvious defects shall be notified to the Supplier within two (2) weeks from delivery; latent defects shall be notified within the same term after their discovery. The date of dispatch of the notification shall apply as the reference date for the purposes hereof. CSAG may issue notifications of defects even where the goods have been processed and sold.

10.2 In case of defective goods, CSAG shall have the right, at its own discretion, demand cancellation of the purchase contract or reduction of the purchase price. As an alternative to the above, CSAG shall be entitled to require replacement deliveries for the goods objected to, supply itself elsewhere at the Supplier's expense or have the defects remedied at the expense and risk of the Supplier.

10.3 In case of any repair activities or replacement deliveries, a new warranty period will start.

10.4 Compensation for consequential damages and/or from any breach of due diligence obligation remains reserved in any case.

10.5 The Supplier shall indemnify and hold harmless CSAG and its customers from and against all product liability claims, which are based on the defective products delivered by the Supplier or on its behalf.

10.6 Details provided by the Supplier regarding measurement, weight, quality and usability of the goods will be deemed as guaranteed conditions.

10.7 Claims for defects shall be subject to the statutory limitation periods.

10.8 If, at any time (before or after the expiration of the after-sales warranty), final users, third parties or national, foreign or supra-national authorities make any claim against CSAG in respect of non-compliance with regulatory standards concerning safety, health, environment and/or manufacturing and/or homologation, and/or due to alleged defects, non-compliance with regulatory standards or rules, non-reliability or lack of safety of products arising out from contract products, the Supplier shall keep CSAG indemnified and harmless from and against any claim from the competent authorities and/or to third party, without prejudice to the Supplier's own responsibilities towards the damaged third party and the authorities, where applicable.

### **11. Contractual Penalty**

11.1 In cases of delay / late delivery, the Supplier shall pay CSAG a contractual penalty in the amount of 0.5% of the order value for each initiated business day of the delay, up to a maximum of 5% of the order value. Notwithstanding and without prejudice to the foregoing, CSAG shall also be entitled to claim the fulfilment of the contract. If CSAG is entitled to a claim for damages due to the late delivery, CSAG may demand the incurred penalty as a minimum amount of damages. The

assertion of higher damages shall not be excluded by this. A delay of more than ten (10) days will be deemed a material breach giving rise to CSAG's right to a contractual penalty, plus any further greater damages.

11.2 If the Supplier culpably fails to fulfil its delivery or performance obligation, it shall pay a contractual penalty in the amount of 5% of the order value. If CSAG claims for the payment of the contractual penalty, the claim for the fulfilment of the contract shall be excluded. Article 10 remains unaffected.

11.3 If the delivered goods and/or the services rendered do not correspond to the agreements reached by the Parties, particularly the specifications defined by CSAG, the legal requirements or the respective state of the art, the Supplier shall pay a contractual penalty in the amount of 5% of the order value. Article 10 remains unaffected.

11.4 If CSAG is entitled to a claim for damages due to a violation of contract pursuant to Article 11.1 to Article 11.3, CSAG may demand the incurred penalty as a minimum amount of damages. The assertion of higher damages shall not be excluded by this. The Supplier acknowledges that the penalties provided in these General Terms and Conditions of Purchase are a fair genuine pre-estimate of the minimum losses and damages that CSAG may suffer in each case.

### **12. Industrial and Intellectual Property Rights**

12.1 The Supplier guarantees that the goods, performances and/or other services delivered to CSAG are free from industrial and intellectual property rights of third parties and, in particular, that the contractually envisaged use at the place of performance/destination does not infringe any third-party rights and that the creator of copyright-protected works or services has granted its consent to the granting of rights of use.

12.2 If the goods, performances and/or other services ordered by CSAG infringes third-party's, industrial or intellectual property rights or other third-party rights, CSAG shall have the right to request from the Supplier to acquire the necessary licences or other authorisations at Supplier's own expense and Supplier shall indemnify and hold harmless CSAG and its customers from and against all costs, claims, demands, liabilities, expenses, losses disadvantages and damages, which CSAG and its customers may incur from a claim due to the infringement of such third party rights, unless CSAG was aware or should be aware of the infringement of third-party rights prior to the entering into this contract. It shall be the Supplier's responsibility to prove CSAG's awareness.

12.3 All rights, title or interest in industrial and intellectual property rights that each Party has acquired or developed prior to or outside the scope of the contractual relationship with the other Party shall remain the exclusive property of the relevant Party. For all such existing industrial property rights, the Supplier grants CSAG, the irrevocable, exclusive, transferable, permanent and geographically unlimited right to use such rights covering the contractual goods, performances and/or other services (or parts of it).

12.4 If the Supplier develops or creates goods, performances and/or other services (or parts thereof) ordered by and upon request of CSAG which results in new industrial property rights like designs, patents, trademarks etc. the ownership of such new industrial property rights covering the goods, performances and/or other services (or parts thereof) including the ownership of templates, samples, tools, inter alia, which the Supplier may produce at the request of CSAG, will be transferred to CSAG including all relevant rights of use. The Supplier hereby transfers to CSAG, the ownership of all such new industrial property rights arising from, or in connection with, the performance of the contract, including all information and documentation related thereto. CSAG shall be authorised to register, maintain or allow to lapse - fully in its own discretion - such industrial property rights covering e.g. inventions or designs, in its own name (providing the name of the inventor/designer in accordance with the respective applicable statutory provisions) and in any countries worldwide.

12.5 Where any performance or work results are copyright-protected or comparably protected works (not being covered as an industrial property right), the Supplier grants CSAG, the irrevocable, exclusive, transferable, permanent and geographically unlimited right to use such works as a whole or in part for all (known and unknown) types of use (including the right to processing and modification), without the need to name the copyright holder.

12.6 The agreed upon remuneration between CSAG and the Supplier shall be deemed to include any consideration payable for the transfer and/or grant of rights hereunder; CSAG may be only required to pay additional remuneration, to the extent legally prescribed. The Supplier shall indemnify and hold harmless CSAG from and against any claims (also under copyright or employee invention law) by third parties in connection with the transfer or use of any performance results.

### **13. Payment**

13.1 Unless otherwise agreed in writing, payments shall be made within ninety (90) days after receipt of the goods, performances and other services rendered by the Supplier.

13.2 If the invoice does not meet the legal requirements, CSAG shall be entitled to withhold payment until receipt of a valid, accurate and verifiable invoice.



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13.3 In the event an advance payment, a down payment, a payment on account, an instalment payment or a partial payment is agreed by the Parties in writing, the Supplier shall issue to CSAG a corresponding invoice.

13.4 The date of forwarding payment instructions to the bank is decisive for compliance with a given payment term. If a complaint is lodged by CSAG (e.g. notification of defects or incorrect invoicing), the payment term commences upon complete clarification of the complaint.

13.5 CSAG shall be entitled to offset any amount owed by CSAG to the Supplier with any amount owed by the Supplier to CSAG and shall be entitled to exercise retention rights to the extent allowed by the applicable laws. CSAG shall be also entitled to offset any amount due to the Supplier with any claims, which CSAG or CSAG's affiliate companies may have against the Supplier.

**14. Assignment**

The Supplier shall not assign, sub-contract or transfer this contract, any parts thereof or contractual claims to third parties.

**15. Order Documentation and Confidentiality**

15.1 All documentation (drawings, designs, specifications and other documents etc.), which CSAG provides to the Supplier, shall remain CSAG's property. Without prejudice to Article 15.2 below, said documentation, as well as the documentation (drawings, designs, specifications and other documents etc.) prepared by the Supplier in accordance with CSAG's specifications, shall not be used, duplicated or made accessible to third parties by the Supplier for purposes other than the execution of CSAG's order. All the above-mentioned documentation shall be protected from unauthorised use or inspection and shall be surrendered without objections promptly at any time upon request, including all duplications. Furthermore, the Supplier shall indemnify and hold harmless CSAG from and against all damages incurred by CSAG arising from the infringement of any of the aforementioned duties.

15.2 The Supplier shall treat the order and the associated activities, as well as any and all non-public financial, technical, commercial or other information concerning the business, assets and affairs furnished by CSAG (whether written, oral, stored on data media or in any other form), strictly confidential. The existence of the business relationship itself shall not be disclosed without CSAG's prior written consent.

**16. Product Recall**

16.1 If a recall of the products produced by CSAG or CSAG's partner(s) / customer(s) using the goods delivered by the Supplier is considered necessary due to quality issues, public health risk or damage to CSAG's brand or reputation (hereinafter the "Product Recall"), CSAG shall be entitled to take reasonable steps to prevent the damage from occurring or to minimize its impact.

16.2 The Supplier shall reimburse CSAG and, as applicable, CSAG's partner(s) / customer(s), for all recall costs which are incurred by CSAG and/or its partner(s) / customer(s) in connection with any Product Recall. This reimbursement obligation shall apply in addition to any other rights and remedies of CSAG under these General Terms and Conditions of Purchase and/or applicable law. Reimbursable Product Recall costs shall include, without limitation, (i) cost of products replacement or refunds for recalled products, (ii) mailing, shipping, publication, telephone, fax, printing and translation charges incurred to notify the public and customers of the Product Recall and for shipment of CSAG products back to CSAG and shipment of replacement products back to customers, and (iii) labour costs to receive and handle returned products and for customer services and other costs related to the Product Recall and the return/replacement of or refund for recalled products.

**17. Data Protection**

17.1 Personal data of CSAG's customers and suppliers will only be captured, stored and processed electronically for contractual purposes, answering customer enquiries, sending of newsletters and participation in prize draws. Any handling of user data shall be subject to the provisions of the EU General Data Protection Regulation (GDPR).

17.2 For further information in relation to the handling of user data, CSAG refers to its Privacy Policy, available on its homepage (<https://www.capri-sun.com>).

**18. Termination**

18.1 CSAG may terminate the contract, or terminate the provisions of any part of the contract, by written notice to the Supplier with immediate effect if the Supplier is in default of any obligation under these General Terms and Conditions of Purchase and

a) the Supplier has not remedied the default to the satisfaction of CSAG within fifteen (15) days, or such other period as may be specified in writing by CSAG, after issuance of a written notice specifying the default and requesting it to be remedied; or

b) the default is not capable of remedy.

18.2 Without prejudice to any remedy provided under these General Terms and Conditions of Purchase, CSAG shall have the right to terminate, totally or partially, the contract with immediate effect, in the cases specifically provided under these General Terms and Conditions of Purchase and in the following cases:

- a) where the default pursuant to Article 11.1 lasts for more than ten (10) days;
- b) total or partial assignment, sub-contracting or transfer to third parties of the rights, obligations, claims and/or receivables of the Supplier or sub-contracting or delegation of all or part of its performance under these General Terms and Conditions of Purchase, without CSAG's prior express written consent;
- c) breach of the Supplier's obligations set forth in Article 19.1, Paragraph b);
- d) non-compliance of the Supplier with laws, provisions and regulations, in relation to health, safety, environment and labour laws.

**19. Corporate Responsibility / Code of Conduct**

19.1 Supplier acknowledges that CSAG is committed to the highest standards of integrity, sustainability and ethics, as described in the Capri-Sun Business Code of Conduct available on CSAG's homepage (<https://www.capri-sun.com>). The Supplier acknowledges the Capri-Sun Business Code of Conduct and agrees to adhere to it.

19.2 The Supplier undertakes to comply with the applicable statutory provisions regarding dealings with employees, environmental protection and health and safety at the workplace, as well as to make its best efforts to render sustainable and/or reduce the implications of its activities on the environment. Furthermore, the Supplier shall observe the basic principles of the Global Impact Initiative of the UN, relating to the protection of human rights, the right to collective bargaining negotiations, the abolition of forced labour and child labour, the elimination of discrimination in hiring and employment, the responsibility for the environment and the prevention of corruption. Furthermore, the Supplier shall cause any of its suppliers to comply with the above-mentioned standards.

a) Compliance with working conditions/minimum wage

By accepting the order, the Supplier assures that the goods delivered and/or the services rendered to CSAG have not been produced and/or provided by infringing any rights of its employees, particularly neither by means of child labour, nor by forced labour, exploitation, prison labour or any other means in violation of human dignity. The Supplier shall employ all of the required workers for the processing of the orders, in compliance with the applicable statutory provisions. The Supplier shall pay the employees at the respective production or service site wages not lower than the applicable statutory minimum wages. The Supplier hereby explicitly represents and warrants that it does not and shall not use any illegal labour. Ceteris paribus, the Supplier shall be responsible for the health and safety of its employees at the workplace. The Supplier shall respect the rights of its employees to become involved in labour unions and acknowledges their right to collective bargaining negotiations.

b) Anti-Corruption

The Supplier undertakes to refrain from becoming involved in any form of bribery and corruption, nor to tolerate the same. Furthermore, the Supplier undertakes to take all necessary measures to prevent corruption and other criminal offences and, within the context of the business relationship, not to directly or indirectly offer advantages to third parties, nor to directly or indirectly obtain or have advantages promised to itself or others, which are, or could be, regarded as unlawful practice or as bribery. In the event of any infringement of the above obligations, CSAG shall have the right to terminate the contract and demand, in which case the Supplier shall pay, a contractual penalty in the amount of 5% of the order value without prejudice to any further rights and damages which may be claimed by CSAG.

c) General Equal Treatment

The Supplier undertakes to provide to its employees on a regular basis briefings on the prevention of discrimination on the grounds of race, ethnic origin, gender, religion, ideology, disability, age and sexual identity. Upon request, the Supplier shall provide to CSAG proof of having carried out such briefings. The Supplier shall indemnify and hold harmless CSAG from and against all claims, actions, liabilities, losses, expenses, disadvantages and damages arising from such discrimination.

d) Environmental Protection

Within the context of its entrepreneurial responsibility, in relation to the production and sale of goods, the Supplier shall comply with the applicable laws on protection of the environment. The Supplier specifically undertakes to only ship the goods to be delivered in such packaging, which is environmentally friendly in terms of type, shape and size and complies with the applicable packaging regulations, as amended from time to time.

19.3 In case of a breach of any of the duties listed above, without prejudice to any further damages and remedies, CSAG shall have the right to grant a reasonable grace period for remedying the infringement; it being understood that in case of failure to remedy the infringement within the prescribed period, CSAG shall have the right to terminate the contract.



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**20. Place of Fulfilment, Legal Jurisdiction and Applicable Law**

**20.1** The place of fulfilment of all duties under this contract, including, but not to bills of exchange and cheques, shall be Zug, Switzerland or the location of the branch of the Supplier, at CSAG's own discretion. All disputes arising out of, relating to or in connection with these General Terms and Conditions of Purchase, including any contracts with and orders made to the Supplier, shall be subject to the exclusive jurisdiction of the ordinary courts of the Canton Zug, Switzerland. Notwithstanding the foregoing, CSAG shall have the right to bring proceedings before the courts where the Supplier has its principle place of business or branch.

**20.2** These General Terms and Conditions of Purchase including any contracts with and orders made to the Supplier shall be governed by and construed in accordance with substantive Swiss law under the exclusion of the Swiss Private International Law Statute (PILS) and the UN Convention on the Contracts for International Sale of Goods (CISG).

**21. Severability**

If any term, condition, stipulation, provision, covenant or undertaking in these General Terms and Conditions in whole or in part of Purchase or of any legal transaction between CSAG and the Supplier is or becomes, or is found by any court or administrative body of competent jurisdiction to be, illegal, void, invalid, prohibited or unenforceable, then the remaining terms, conditions, stipulations, provisions, covenants or undertakings of these General Terms and Conditions of Purchase or of any legal transaction between CSAG and the Supplier shall remain in full force and effect. In such a case, the contracting Parties shall negotiate in good faith in order to make a new, valid agreement without delay, achieving as closely as possible the commercial effect of the provisions so found to be illegal, void, invalid, prohibited or unenforceable.