



Janoušek S.p.A.  
Muggia (Trieste) – Italia

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Condizioni Generali di Acquisto (CGA)

General Purchase Conditions (GPC)

updated 01<sup>st</sup> January 2015

## Art. 1 – Contractual Norms

1.1. The present General Purchase Conditions of Janoušek S.p.A. (hereinafter named "GPC"), excepting possible derogations specifically agreed on in writing, shall regulate all present and future purchasing contracts between the parties. Possible general conditions of sale by the Supplier shall not be applied to the agreements between the parties unless expressly accepted in writing; in such a case, however, excepting a written derogation, they shall not exclude the efficacy of the present GPC with which they must be coordinated.

1.2. All references to possible commercial delivery deadlines (EXW, FCA, CIP, etc.) shall be understood as relating to the Incoterms® 2010 of the International Chamber of Commerce of Paris, according, however, to the text in force at the time of the drawing up of the contract.

1.3. All purchase contracts between the parties as well as the current GPC shall be regulated by Italian law and, in the case of international sales, by the Vienna Convention 1980 on international sales of moveables. Possible derogations or appeals from the parties concerning specific articles of Italian law shall not entail a partial or total exclusion of the application of the above-named laws.

1.4. Janoušek S.p.A. is free to establish and periodically update its purchasing conditions, both general "GPC" and specific. Where possible, such changes shall be communicated to the Supplier in good time by the Commercial Office of Janoušek S.p.A.

## Art. 2 – Formation and object of the contract

2.1. The acceptance of an order on the part of the Supplier, however it is carried out, means that he automatically accepts and adheres to the present GPC, see <http://www.janousek.com/> which is automatically confirmed in any case, when Janoušek S.p.A. receives the goods, except in the case of a specific written exception issued by Janoušek S.p.A..

2.2. Every single purchasing order sent to a Supplier by Janoušek S.p.A. for the purchase of specified goods refers normally to a written Offer sent by the Supplier to Janoušek S.p.A.. In the absence of a different written agreement, it is agreed and understood that the purchasing conditions are those indicated in the present GPC. The Supplier obliges himself to maintain the validity of the Offer for the time specified by himself. After written confirmation by Janoušek S.p.A. under the specified conditions and terms, the Supplier shall be obliged to accept the Order.

2.3. The present GPC substitute and make null and void previous proposals of one of the parties. The possible selling conditions on the part of the Supplier shall be applied, in whole or in part, only in the case of expressly written acceptance on the part of Janoušek S.p.A. The acceptance by the Supplier of an order on the part of Janoušek S.p.A. means a contextual, integral recognition and acceptance of the present GPC, to be also downloaded at the following address: <http://www.janousek.com/>.

2.4. Janoušek S.p.A. shall consider valid exclusively its own orders sent to the Supplier validated and/or signed under the form of (a) a contract, or (b) on its own letterhead, or (c) on its own letterhead fax, or (d) under a signed and stamped confirmation of the Supplier's official offer or (e) via e.mail. Possible telephonic orders shall be considered valid only after written confirmation by Janoušek S.p.A..

2.5. The unreserved acceptance on the part of Janoušek S.p.A. of goods that do not conform to type, quantity or packaging, or are in any other way different from the goods listed in the Supplier's offer or invoice, shall not entail the final acceptance by Janoušek S.p.A..

2.6. All the registrations or transcriptions required by the countries of the contract partners shall be carried out by the parties following specific agreements to be agreed each time, however, in cases of international purchases, the Supplier shall be responsible for following the customs and legal export procedures of its country.



2.7. The prices specified in the offers and contracts shall be held valid for the length of time indicated therein and are intended exclusive of VAT and other local tax, excise etc.

2.8. The ownership of the goods shall pass to Janoušek S.p.A. following the Incoterms® 2010 conditions specified by the contract.

2.9. In cases where the quantity of the goods received by Janoušek S.p.A. is greater than that indicated in the contract, Janoušek S.p.A. may choose between keeping the excess quantity or put in at the disposal of the Supplier, communicating the terms by which he will destroy the excess goods at the Supplier's expense, should the Supplier so desire or should the Supplier not answer within the requested time. Janoušek S.p.A. shall not, however, be responsible for the conservation of those goods.

### Art. 3 – Quality of the Goods, Samples, Technical Sheets and Documents, and other Documents

3.1. The weights, size, characteristics, capacity, prices, yield, colours and other data, with special reference to Food Grade classification, that figure on the web site, in the catalogues, prospectives, circulars, technical files, illustrations, price lists, offers and other documents of the Supplier, when mentioned and/or confirmed by contracts, and/or by final offer and/or by technical sheets and/or by analysis certificate as well as by samples sent by the Supplier to Janoušek S.p.A., shall have a binding value for the Supplier. However, Janoušek S.p.A. may acknowledge, at its sole discretion, some variability in the organoleptic characteristics of some products that come within the normal margin of tolerance allowed by the use of natural raw material.

3.2. The Supplier shall commit himself to supplying in due time all requested documents related to import documentation, customs, duties, origin of the goods etc. required by Janoušek S.p.A. and/or necessary.

3.3. In such cases where the offer of the Supplier or the acceptance by Janoušek S.p.A. refers to a sample supplied by the Supplier, it is understood that the Supplier is bound in his consignments to the characteristics of the sample, solely within the limits indicated in point 3.1., except where otherwise stipulated in a written agreement.

3.4. Any technical document supplied by the Supplier may be used, copied, reproduced, reworked, transmitted or communicated to a third party by Janoušek S.p.A. .

### Art. 4 – Guarantee

4.1. The Supplier shall guarantee the conformity of the goods provided to what has been expressly offered and agreed.

4.2. The guarantee shall have a duration corresponding to the expiry date which appears on the Technical and Safety Data Sheet or to other documents or terms of the law. The guarantee shall take effect from the date of the effective consignment at the delivery address indicated by Janoušek S.p.A. and is to be activated by written request by Janoušek S.p.A.. As provided by such a request, the Supplier is obliged, within a reasonable time and unless different or specific provisions of law, to agree with Janoušek S.p.A. either:

(a) provide Janoušek S.p.A. on CIP terms, free goods of the same kind and in the same quantity as those which turned out to be defective or which did not conform to what was stipulated; in such a case the Supplier may demand the possibility of having the defective goods returned, at his own expense, which then become his property;

or:

(b) modify, where possible and at his own expense, the goods which does not conform to the stipulations, carrying out the aforementioned operations in loco or on his own premises;

or:

(c) declare in writing the cancellation of the contract, offering the restitution of the price against the restitution of the goods provided

Whatever the solution applied, without prejudice to the right of Janoušek S.p.A. to be compensated for any damage or loss of business caused.

### Art. 5 – Complaints

5.1. The weight of the goods shall always be the weight verified on arrival, even in cases of FCA sale or similar conditions.



5.2. Complaints concerning non-conformity of quantity, weight, total tare, colour or others features or defects in quality or and/or any other defects of the good, which Janoušek S.p.A. might discover after receiving the goods, shall be made by Janoušek S.p.A. in the shortest time possible starting from the date of the delivery but, in any case, within the shelf-life indicated by the Supplier or, alternatively, in absence of an expiration date, within 60 (sixty) days from the delivery date. Hidden defects or hidden non-conformity (in other words those not identifiable in the checks imposed by the law or by reasonable diligence of the purchaser) will be reported by Janoušek S.p.A. in the shortest time possible after the discovery of such defects.

5.3. Complaints must be made by registered letter with return receipt, and with prior notice given via fax or by e.mail, or, alternatively, by certified e.mail or e.mail. It will be indicated in detail the defects or non-conformity discovered, together with photographic documentation when appropriate and specifically in those cases where the Supplier's assistance is asked for damage to the packaging that took place during transport.

#### Art. 6 – Technical norms and responsibility of the producer

6.1. As regards the characteristics of the goods, the Supplier is obliged to follow the legislation and the norms which are in force in Italy and the European Union. The goods must be accompanied by appropriate Technical and Safety Data Sheets and Documentations and, when required, by the Certificate of Analysis.

6.2. The Supplier shall be responsible for damage to people or things originating from the goods sold, in all the actions of third parties concerning liability arising from goods sold and shall pay damages arising from the claims in question.

6.3. Notwithstanding the foregoing, the Supplier shall indemnify Janoušek SpA in all the actions of third parties based on liability arising from non-conformity to laws and norms of goods sold or damage arising from the claims in question. Janoušek S.p.A. may involve the Supplier who in turn shall take all necessary steps to intervene to protect Janoušek S.p.A. in claims filed by third parties.

#### Art. 7 – Delivery

7.1. Unless otherwise stipulated in writing, the sale shall be understood to be carried out by CIP delivery terms (Transport and Insurance paid until destination) even when it has been stipulated that the delivery (or part of it) should be supervised by Janoušek S.p.A.; in such cases Janoušek S.p.A. shall act only as an agent for the Supplier, it being understood that transport shall be at the expense and risk of the Supplier.

7.2. Any delivery date which has been expressly stipulated in writing by the parties as essential is understood as such.

7.3. In the case of late delivery, Janoušek S.p.A. may cancel the order, or the part of the order not delivered, by registered letter with receipt of return, preceded by fax or by e.mail, or by certified e.mail, in any case without prejudice to the right of Janoušek S.P.A. to be compensated for any damage or loss of business caused.

#### Art. 8 – Payment

8.1. The invoice shall be sent to the certified e.mail address (PEC) : [janousek.spa@cert.assind.ts.it](mailto:janousek.spa@cert.assind.ts.it).

8.2. Payment shall be made, following the terms stipulated in writing and in agreement with the above specified terms. However payment does not entail definitive acceptance of the goods.

#### Art. 9 – Unforeseen events and excessively onerous contracts

9.1. None of the parties shall be responsible for any default or failure in such cases as are defined by the International Chamber of Commerce of Paris "Force Majeure and hardship Clause 2003".

9.2. If, for any circumstance that cannot be foreseen by a businessman with normal experience in the sector, the carrying out of the obligations of Janoušek S.p.A. has become – before carrying them out – excessively onerous in relation to the negotiations originally stipulated, Janoušek S.p.A. may ask for a review of the contractual conditions, and where this is denied, declare the contract cancelled.

#### Art. 10 – Transfer of the Contract



10.1. The Supplier cannot transfer his contractual obligations in whole or in part without the written approval of Janoušek S.p.A., however even in this case the Supplier remains jointly and severally liable with the assignee for the transferred obligations.

Art. 11 – Interpretation; modifications; invalid clauses

- 11.1. For the interpretation of the present GSC, only the Italian text of the same is to be taken on trust.
- 11.2. Eventual enclosures or conditions shall be understood as being integral parts of the contract to which they refer.
- 11.3. Declarations made or attitudes or decision adopted by the parties during negotiations or the drawing up of a contract shall contribute only to the interpretation of the contract to which they refer.
- 11.4. Except as provided above by Articles 2.5 and 2.6, any modification or integration made by the parties to the contract must be made in writing otherwise it shall be considered null and void.
- 11.5. No delay or omission by Janoušek S.P.A. in exercising any right under current GPC shall operate as a waiver of that or any other right. Departing from one or more of the dispositions of the GPC shall not be interpreted extensively or by analogy. A waiver or consent given by Janoušek S.p.A. on any one occasion shall be effective only in that instance and shall not be construed and interpreted as a confirmation or waiver of any right on any other occasion.
- 11.6. Possible variations of any condition of the contract drawn up between the parties shall not constitute a novation of the contract unless a wish to the contrary is expressed in writing.
- 11.7. In the case of invalid or ineffective contractual dispositions for any reason, the contract as a whole shall be integrated and interpreted as if it contained all the clauses which make it possible to reach, in accordance with the law, the essential aim of the agreement containing the clauses in question.

Art. 12 – Confidentiality

- 12.1. The supplier is committed to strict confidentiality concerning all the technical specifications, the documents, the drawings, the requests received from Janoušek S.p.A., including the quantities, the prices and the selling conditions.
- 12.2. Also in accordance with the laws in force, Janoušek S.p.A. shall make every reasonable effort to keep confidential the contacts and the conditions related to the suppliers and the services, yet reserves the right to use the information, the declarations and the technical data received wherever necessary for commercial reasons.

Art. 13 – Disputes resolution, Jurisdiction, applicable Law

13.1. For any controversy relative to or in any case relating to purchasing contracts issued by Janoušek S.p.A., exclusively Italian law shall be applicable and the law court of Trieste shall be exclusively the place of jurisdiction. Janoušek S.p.A., however, retains the right to act in the law court of the Supplier.

Date.....

Janoušek S.p.A. ....

In acceptance

The Supplier .....