

General Terms and Conditions (GTC)

Hügli Nahrungsmittel AG, Steinach

Last updated June 2015

1. Scope

These General Terms and Conditions (GTC), in addition to other contractual agreements, shall apply exclusively for all commercial transactions between Hügli Nahrungsmittel AG, hereinafter referred to as HÜGLI, and the Supplier or other contractors, hereinafter uniformly referred to as Supplier. Other conditions shall not be accepted by HÜGLI, unless HÜGLI expressly agrees to their validity in writing. Any changes or amendments to these terms and conditions shall apply only through written agreement.

2. Offers and Execution of Contract

Offers and samples are free of charge for HÜGLI. Any differences from the request must be explicitly indicated in the final offer. The Supplier is bound to its offer for a period of at least one month. The Supplier must confirm the order in writing within 10 working days from the order date. Until of confirmation, HÜGLI is entitled to cancel the order.

HÜGLI can require contractual changes prior to executing the order. The changes shall be mutually agreed in writing. Objections to any changes demanded by HÜGLI shall be notified to HÜGLI immediately. If there is a failure to reach an agreement, HÜGLI is entitled to terminate the contract; in this event, the Supplier shall receive a reasonable reimbursement of expenses.

Any contract assignment to third parties without the consent of HÜGLI is prohibited and entitles HÜGLI to terminate the contract.

3. Product Safety

a) The Supplier warrants the conformity of its products, services and works to both law and contract. In particular, it assures that the foodstuffs supplied comply with all contractual specifications and are free from all defects.

b) The Supplier shall ensure that the products delivered comply with all relevant requirements, in particular all food law regulations of Switzerland, the EU and Germany, specifically the Food, Consumer Products and Animal Feed Code (LFGB) as well as all food regulations in the country of destination.

c) The Supplier must ensure, through appropriate contractual arrangements and controls, that any carriers, subcontractors and other companies commissioned by the Supplier observe and comply with these laws and regulations.

d) In our specification agreements with the Supplier, product shelf life, amongst other terms, shall be defined for each product. The remaining product life, i.e. the time HÜGLI has available for processing and subsequent marketing of the products, starting from the day following the day of receipt must – unless regulated by individual agreements – constitute at least 70% of the total product life (the period between manufacture and specified date). Deliveries of goods that do not meet these requirements shall be deemed defective.

e) The Supplier shall keep informed about the intended use of its products, services and works.

f) The Supplier shall mark items delivered so that they are recognisable as its products.

4. Price and Payment Terms

All prices are exclusive of applicable VAT. Prices are subject to change. Payment shall be made in accordance with contractual conditions but at the latest within 30 days after invoicing.

5. Delivery

Delivery shall be made in accordance with the DDP (Delivered Duty Paid) clause in Incoterms 2010 or separate written agreements. The decisive date for compliance with deadlines is the date of receipt of delivery, whether at an agreed HÜGLI facility or at a receiving point or usage site specified by HÜGLI.

6. Inspection and Notice Obligations

Deliveries shall be inspected by HÜGLI for obvious contractual defects. Notice of defect is timely when made within 10 workdays from the discovery of the non-conformity to contract.

The Supplier waives any objection to belated notice of defect.

For transit transactions, the notice of defect given by the customer is decisive.

Complaints mean additional costs. Accordingly, HÜGLI reserves the right to charge a compensation fee of CHF 100 per claim.

The Supplier reserves the right to prove lower expenses whereas HÜGLI reserves the right to prove higher expenses. The Supplier shall bear the costs and risks for the return of nonconforming delivered goods.

7. Breach of Contract

HÜGLI's legal rights for claims arising from breach due to non-conformity and/or damages shall be unrestricted. Objections regarding forwarding or transport must be made in writing immediately upon receipt of either deliveries or shipping documents to the most recent freight carrier. Omission of such notice shall be deemed as an approval of the deliveries. Where packaging damage is apparent, an immediate inspection of incoming goods must be carried out; in addition to the date and signature on the delivery receipt, any possibly damaged items are to be itemised. For undamaged packaging, the claims period runs for seven days. Any acceptance without immediate inspection are effected under reserve.

In the event of a partial delivery that is defective, no rights whatsoever shall arise or derive with regard to any remaining partial delivery. Unless mandatory provisions preclude it, HÜGLI shall recognise claims for damages of any kind only in the event of its own wilful intent or gross negligence.

8. Force Majeure

In cases of force majeure, HÜGLI is released from the obligation to accept receipt of goods or works, as well as from the obligation to accept performance for the duration of the force majeure. This shall also apply to any cooperation in fulfilment of the contract.

Where the acceptance is delayed by more than six weeks, both the Supplier and HÜGLI are authorised to rescind the contract with respect to the affected scope of performance.

9. Insurance

The Supplier undertakes to maintain customary business and product liability insurance covering bodily injury as well as property damage and financial loss and further to maintain insurance against recall costs for all delivered products.

The insurance must also extend to damage and loss abroad.

The supplier shall provide HÜGLI with confirmation from the insurer regarding the aforementioned scope of coverage (Certificate of Insurance) at the latest with the first delivery or performance.

10. Production Materials and Components

Production materials made available by, planned or paid for by HÜGLI shall remain or become the property of HÜGLI.

The Supplier is obliged to use all production materials exclusively for the production of contractual products ordered by HÜGLI.

11. Confidentiality

The Supplier undertakes not to disclose any proposals, designs, calculations, etc. by HÜGLI to any third party, nor to disclose any contractual provisions.

12. Court of Jurisdiction and Applicable Law

Place of performance and court of jurisdiction is the HÜGLI company domicile, currently Steinach (Switzerland).

The legal relationship between the Supplier and HÜGLI is governed exclusively by formal and substantive Swiss law, excluding the IPRG (Federal Statute on Private International Law) and the CISG (Vienna Convention on the international sale of goods).

13. Severability Clause

In the event that any of the above provisions in any clause are deemed invalid or lose their validity, this shall not affect the validity of the remaining provisions. The invalid provision shall be deemed replaced by one that fulfils as closely as possible the originally intended purpose

in a legally valid manner.