



### **I. Application**

1. These Terms and Conditions of Purchase of Uelzena apply exclusively to all present and future legal transactions between the Supplier and Uelzena, insofar as no other terms and conditions have been explicitly acknowledged or agreed in writing. These Terms and Conditions of Purchase shall also be binding where Uelzena accepts delivery without objection although it is aware of the existence of contradicting terms and conditions of the Supplier or ones that are at variance with these Terms and Conditions of Purchase.
2. The Supplier will be notified in writing of any amendments to these Terms and Conditions of Purchase. Any such amendments are deemed to have been approved by the Supplier where it does not lodge an objection to them in writing. Uelzena will inform the Supplier of this consequence when making notification. Any objection lodged by the Supplier must be received by Uelzena within six weeks of Uelzena making notification. Upon notification being effected, the amended version shall supersede all previous versions of the terms and conditions and apply to all future transactions.
3. Incoterms 2000 shall additionally apply provided that they do not contradict Uelzena's Terms and Conditions of Purchase or any other terms agreed by Uelzena and the Supplier.

### **II. Conclusion of a contract, Orders, Quotations**

1. A contract is concluded by virtue of an order or call-off by Uelzena unless the Supplier immediately opposes this in writing.
2. Any subsequent modifications or amendments are not binding unless rendered in writing.
3. All offers and quotations of the Supplier shall be made in writing and provided free of charge.

### **III. Scope of Performance**

1. The scope of performance to be provided by the Supplier shall follow from the specifications made known to it upon the conclusion of a contract. Where such specifications are absent, they shall follow from the particulars of the Supplier's offer or quotation.
2. The Supplier warrants that the products supplied by it including their packaging comply with German and EU statutory requirements as amended as well as with current trade usage, in particular as specified in EU food laws and the German Food and Feed Code (LMBG).
3. Uelzena will accept only the quantities ordered by it. Any excess or short quantities supplied shall be subject to prior agreement with Uelzena. Where partial quantities are agreed, the Supplier shall notify Uelzena of the remaining quantity to be supplied upon every partial delivery.

### **IV. Modifications to the Scope of Performance**

1. Where it is shown in the course of executing a contract that deviations from the specifications originally communicated are required or expedient, the Supplier shall immediately notify Uelzena to this effect. Uelzena will then notify the Supplier in writing whether any such changes are to be made by it as compared to the original order and which changes are to be made.
2. Uelzena may also demand changes to the products/services to be provided subsequent to the conclusion of a contract, insofar as this is reasonable for the Supplier. In the event of any such amendment to the contract, its impact is to be suitably taken into account by both of the contracting parties, particularly as it relates to increased or reduced costs and the delivery dates.

### **V. Delivery Dates**

1. Agreed delivery times and periods are binding. Where a delivery date has been specified, it is fixed and binding.
2. The decisive factor for determining adherence to a specified delivery date is the receipt of the products by Uelzena or a recipient designated by it. Where DDU or DDP delivery terms have not been agreed and Uelzena has agreed to assume transportation of the products, the Supplier shall make the products available in a timely manner, taking into account the time to be agreed with the forwarding agent for loading and shipment. Uelzena expressly reserves the right to assert claims for any damages caused by a delay in delivery.
3. Where the Supplier anticipates difficulties with regard to adhering to the delivery date or similar circumstances that might prevent it from effecting delivery in a timely manner or in the agreed quality, it shall make notification to Uelzena to this effect immediately, indicating the reasons for the delay and its projected duration.
4. Uelzena shall be entitled to rescind a contract, whether in part or in whole, without prejudice to its other rights, in the event of force majeure; strikes or other concerted acts of workmen, with the exception of unlawful lockouts; operational interruptions not attributable to it; riots, civil war, civil commotion; acts of governmental bodies; and other unforeseeable or non-avertable events impacting Uelzena.
5. In the event of a delay in delivery Uelzena shall be entitled to avail itself of the remedies as provided for by law. In particular, Uelzena shall be entitled, upon a reasonable period of grace having passed without result, to assert damages for non-performance.

## **VI. Documents, Pricing, Payments**

1. Invoices shall be submitted under separate cover in duplicate and feature Uelzena's ordering particulars, i.e. order number.
2. The price indicated in the order shall be binding. Prices shall be quoted exclusive of value added tax (VAT).
3. Where invoices submitted by the Supplier do not contain Uelzena's ordering department or the order number, Uelzena shall not be in default until the lapse of thirty days after the due date and receipt of the products. The Supplier shall be responsible for any consequences as the result of non-compliance with these stipulations.
4. In the event of the delivery of products/services not in compliance with the contract or, in particular, defective products, Uelzena shall be entitled to withhold payment until the contract has been properly complied with, this being without prejudice to its rights to any discounts or similar payment reductions. Uelzena shall also be entitled to offset amounts due to it as provided for by law.
5. Where no special agreement has been made, payments of invoices will be effected within two weeks upon receipt of the invoice, with a deduction of three per cent from the net price being taken, or within thirty calendar days upon receipt of the invoice and the provision of the products/services. Payment will be effected subject to verification of the invoice; Uelzena reserves the right to reclaim amounts paid if the verification warrants this.

## **VII. Claims; Warranty; Recourse/Recovery Action**

1. The Supplier shall assume liability for the products provided under the contract being in accordance with the state of the art, relevant statutory provisions, and the provisions and guidelines of government authorities, trade associations (employers' liability insurance associations) and industrial associations. Where the products provided under the contract do not satisfy these requirements, the Supplier shall effect notification to Uelzena thereof in each individual case prior to commencing delivery, indicating the reasons therefor. In this case, Uelzena shall also be entitled to subsequently reject the delivery within ten days upon receipt and to assert claims for defects as provided for by law.
2. Any deviation from the specifications shall constitute a defect.
3. Where the Supplier has reservations with regard to the specifications or method of performance requested by Uelzena, the Supplier shall immediately inform Uelzena to this effect in writing.
4. The acceptance of goods by Uelzena shall be subject to the reservation of laboratory testing and analysis and/or examination for faultlessness and completeness.
5. Incoming inspection will be done on the basis of the delivery slip and will be limited to determining obvious defects. Uelzena will examine all deliveries as soon as this is possible in the course of ordinary processing and make written notification to the Supplier of any defects detected within five working days. In ascertaining whether notification of defects is timely the postmark shall be determining factor. This applies accordingly to defects that don't become evident until subsequently. The Supplier waives the defense of delayed notification of defect to this extent.
6. Where the Supplier does not immediately remedy the defects upon a request to this effect by Uelzena, Uelzena shall be entitled in urgent cases, in particular to avert acute hazards or mitigate damage, to remedy the defect at the Supplier's expense, including by way of procurement of a replacement from a third party if necessary. This shall be without prejudice to Uelzena's right to avail itself of the remedies as provided by the German Civil Code (BGB).
7. Upon the Supplier being in default of remedying the defect Uelzena shall be entitled to rescind the contract as well as to a reduction of the purchase price, compensation for damages, or reimbursement of any expenses incurred by it in vain. Compensation for damages shall extend to damages due to a delay in performance; unavoidable ancillary costs; incidental, special, indirect or consequential damage; and recall costs including preventive action to avert imminent damage or injury.
8. The statutory warranty period of twenty-four months shall apply, as of the passage of risk.
9. In the event of defects of title of the product, the Supplier shall hold Uelzena harmless against any and all claims asserted by third parties.
10. The limitation of action in respect of claims shall be interrupted as long as the product is with the Supplier or its contractor for the purpose of examination or remedying of defects.
11. Where a replacement delivery is made or defects are remedied, the warranty period shall begin anew.
12. The payment of an invoice by Uelzena shall not constitute a waiver by it of its warranty claims.

## **VIII. Product Liability**

1. Where product liability claims are filed against Uelzena, the Supplier shall be obligated to hold Uelzena harmless from such claims where the damage has been caused by an error on the part of the product supplied by the Supplier under the contract. However, this shall not apply in cases of fault-based liability where the Supplier is not at fault. In any such event, the Supplier shall hold Uelzena harmless in the same amount of all costs including expenses for recall actions and for the legal expenses incurred for prosecution. Otherwise the provisions of law shall apply to any cases not provided for here.
2. The Supplier shall take out and maintain for the duration of the business relationship with Uelzena extended product liability coverage providing for a minimum sum insured of €5,000,000.00 per insured event. The Supplier shall be obligated to furnish documentary proof thereof to Uelzena should it so request. The aforementioned provisions shall be without prejudice to any further claims for compensation to which Uelzena may be entitled.

#### **IX. Delivery Specifications/Delivery Terms**

1. Delivery slips must contain at minimum the Uelzena order number and the indication of the batch number. These particulars must also appear on invoices.
2. The goods receiving times are: Mon.-Fri. 7:00 a.m. to 2:00 p.m. Exceptions to this are possible only with the approval of the warehouse management.
3. The Supplier shall be obligated to use specialist food freight forwarders or properly qualified food carriers where, according to Incoterms, the use of carriers lies within the Supplier's responsibility.
4. The carriers are to be informed by the Supplier of the delivery conditions in general, and the hygiene and safety regulations in particular, in effect at the respective Uelzena plant.
5. The Supplier will ensure that delivery is effected using food-grade Euro-pool pallets (new or A1 quality). The products stacked on the pallets must be all of the same batch. No mixing of batches is permissible. Each pallet must be clearly labeled with the batch number.
6. Preference is to be given to the packing and packaging specifications set out in individual contracts.

#### **X. Tooling, Templates**

1. Tools, moulds, templates or similar items commissioned by and fabricated for Uelzena shall become Uelzena's property upon being completed. This property may only be used for production purposes for Uelzena. Uelzena's property is to be properly labeled, insured free of charge, stored separately, maintained and kept in good repair. Uelzena may request that this property be surrendered to it at any time.

#### **XI. Disclosure Obligation; Foreign Trade**

1. The food laws shall apply to the products supplied. The Supplier is obligated to furnish to Uelzena all of the available information pertaining to the products supplied by it used to manufacture food products that Uelzena may require for compliance with statutory documentation and information disclosure obligations toward government authorities and consumers.
2. If requested, the Supplier shall indicate the country of origin of the products supplied by it and furnish the certificates of origin required for export. It is liable for the correctness of the information provided by it.
3. Uelzena shall be entitled to collect and retain reference samples of the products supplied by the Supplier.

#### **XII. Obligation to Maintain Confidentiality**

1. The Supplier is obligated to maintain confidentiality regarding all business and trade secrets which become known to it in its business dealings with Uelzena and not to divulge this information or make it available to third parties. This shall apply in particular to all information pertaining to Uelzena's products with regard to recipes, formulations, drawings, drafts and the like.

#### **XIII. Concluding Provisions**

1. Any assignment of claims against Uelzena shall be subject to the approval of Uelzena eG.
2. Uelzena shall be entitled to rescind a contract, whether in part or in whole, in the event that the Supplier ceases effecting payments, designates a temporary insolvency administrator, or insolvency proceedings are initiated against it.
3. These Terms and Conditions of Purchase shall be governed and interpreted exclusively in accordance with the laws of the Federal Republic of Germany.
4. If any provision of these Terms and Conditions of Purchase shall prove void or unenforceable, whether in whole or in part, it shall not in any way or manner affect the validity or enforceability of any other provision hereof.
5. The courts at Uelzena eG's domicile shall have jurisdiction with regard to any and all disputes arising from or in connection with these Terms and Conditions of Purchase. However, Uelzena shall be entitled to bring action against the Supplier at any other permissible venue.