

General Terms and Conditions of Business (GTCB) of KÜNDIG Nahrungsmittel GmbH & Co. KG Deutschland

1. Application of the GTCB

Our contracts are governed solely by our GTCB. We shall oppose any GTCB of our contracting parties that deviate from our own: our conditions shall be deemed to have been tacitly accepted on receipt of our goods/services.

2. Written form

The contract shall not materialize until we confirm the order in writing. Ancillary agreements and amendments require the written form.

3. Prices/methods of payment

Our prices are net ex works exclusive of value added tax, freight, insurance and, if required, the costs of analyses. Payments are to be made according to the applicable agreement, otherwise no later than 30 days after receipt of the invoice.

4. Default by the customer

From the 30th day after receipt of the invoice, the customer will be in default without any additional reminder being required. Default interest of 8% above the base rate will accrue. If the customer defaults, or if there is a significant deterioration in his assets, we will be able to call in all outstanding receivables immediately and to demand collateral for them.

From this point in time, the customer will no longer be entitled to sell on or process the goods that are subject to our retention of title (cf. clause 5). He must release these to us immediately, provide us with all information on collateral, and submit to us the documentation relating to this. The costs of safeguarding our rights shall be borne by the customer. Revocation of the authorization to sell or process the goods does not in itself constitute withdrawal from the contract. Our right to withdraw from the contract and to demand compensation on account of non-fulfillment shall remain unaffected.

5. Retention of title

We shall retain title to goods supplied by us until payment in full of all our claims. While the retention of title continues, this shall also apply to all existing and future claims for payment arising out of the business relationship that exists with the customer, including in the event of our individual receivables being placed in a current account. The retention of title shall also extend to those goods which come into being in future by the use of the goods supplied by us, from their treatment or processing and/or their combining or mixing with other goods. Insofar as the remaining title to these new goods retained by us does not continue by law, any title or joint title to these new goods accruing to the customer will pass to us from the customer immediately. At the same time, it is agreed that the purchaser will store and insure our goods which are subject to retention of title and are pledged, and will do so at his expense, safely, appropriately and carefully for us, and applying appropriate identification. The purchaser will be entitled to resell the goods in the course of normal, orderly trade. He will not be permitted to pledge them or assign them to third parties as security. In the event of attachments or other interventions by third parties in our

retention of title, the customer is to inform us without delay so that we can protect our rights. If the third party is not able to refund us the judicial or extra-judicial costs of asserting our legal rights, the party placing the order shall be liable for the loss incurred by us. In each case in which goods encumbered with our rights are resold by the seller, all claims on the part of the purchaser accruing against his purchaser in this respect will be deemed to be assigned to us simultaneously by way of security with all ancillary and security rights.

If the value of the collateral to which we are entitled exceeds the receivables to be collateralized by more than 20% overall, we will be obliged, at the written request of the purchaser, to release the equivalent amount of collateral of our choice in favor of the customer.

6. Deliveries/transport risk

Delivery and production deadlines are only approximate unless we have expressly confirmed that fixed dates have been agreed. It is, however, permissible in all cases to overrun deadlines by not more than 14 days. In cases of force majeure or if other circumstances occur for which we are not responsible, fixed delivery and production deadlines will also be extended by the duration of the temporary impediment to performance.

In the absence of any agreement to the contrary, we shall be entitled to make part deliveries to the extent that is customary. Irrespective of this, deviations from the total agreed quantity to be delivered of up to 10% are permissible. In the case of contracts whose execution takes place over a longer period (deliveries on demand), each delivery counts as a completed transaction. A part delivery that is incomplete or late will have no impact on the portion of the contract that has not yet been executed.

All quotations and contracts are subject to the company itself being supplied with the full quantity of the correct goods on time. Unforeseen events, such as strikes, disruptions in operations, restrictive action by the authorities or natural disasters will release us from the agreed delivery commitment. This will also be the case if events of this kind occur at one of our subcontractors.

Unless expressly agreed otherwise in writing, we shall despatch the goods at the purchaser's risk and expense. In the event of any subcontracting, the customer shall deliver the goods to us carriage paid and shall accept them ex works once production is complete.

7. Target condition of the goods

The target condition of the goods is determined by the contractual agreements. However, unless expressly agreed otherwise, these do not constitute any guaranteed characteristics. In the case of sale by sample, the sample is only regarded as a demonstration model to show the characteristics and features of the goods. Unless expressly agreed otherwise in writing, the characteristics of the sample are not guaranteed.

8. Requirement to give notice of defects

The customer must notify us in writing of detectable defects in the goods/services delivered without delay (within three days of receipt at the latest). If the defect is only

detectable later despite proper checks being carried out on receipt, the deadline of three working days will apply from the date on which the purchaser became aware of the defect.

If the goods delivered are processed or sold by the customer, this will be regarded as an unreserved acceptance because, in this case, it is not possible for us to check for the presence of a defect.

9. Warranty

In the event of any defect, we warrant that we shall either fulfil our part of the contract subsequently (by supplying a replacement or rectifying the defect) or reduce the fee, according to our own choice. If subsequent rectification fails, we are permitted one further attempt at rectifying the defect.

If the defect is due to the delivery made/service provided by a third party to us, the customer may only demand that our claims against the third party are transferred to him. The customer may only claim against us if our customer first claims unsuccessfully against the third party.

Warranty claims against us may not be assigned.

10. Liability

a) We shall be liable for simple negligence in the event of injury to life, limb or health, and in the event of breaches of duties whose fulfillment is absolutely necessary for the contract to be properly implemented and on compliance with which the customer may regularly rely.

b) Otherwise, we shall only be liable for deliberate acts and gross negligence.

c) In the event of slightly negligent breaches of material contractual duties, we shall only be liable for predictable losses that are typical of the contract, and not for remote subsequent losses.

This shall also be the case for deliberate or grossly negligent breaches of material contractual duties by our ordinary vicarious agents.

Any further claims by the customer are excluded.

11. Limitation

The limitation period for warranty claims shall amount to one year after receipt of the delivery/service by the customer. Claims pursuant to clause 10 a) become statute-barred after 18 months. Articles 478, 479 of the German Civil Code (Bürgerliches Gesetzbuch-BGB) shall remain unaffected.

12. Delay in calling for and accepting goods

If the customer does not call for the goods ordered within the agreed or an otherwise appropriate period, we may set a grace period and, once this has expired fruitlessly, we may withdraw from the contract and demand damages of 25% of the purchase price on account of non-fulfillment. The customer is entitled to prove that we have not incurred any losses or that the losses incurred were less than 25% of the purchase price.

13. Applicable law and place of jurisdiction

The place of jurisdiction is Meiningen (Germany). Exclusively the law of the Federal Republic of Germany shall apply, to the exclusion of European purchasing law and the United Nations Convention on Contracts for the International Sale of Goods.