



Version 01 PC – 10/2017

General Terms and Conditions (Purchasing)

of 11er Nahrungsmittel GmbH and 11er Verwaltungs GmbH
for the purchase of products, supplies and services

Art. 1 Scope

11er Nahrungsmittel GmbH and 11er Verwaltungs GmbH (hereinafter: 11er) obtains all its goods and services from businesses (hereinafter: Suppliers). The current version of these General Terms and Conditions (GTC), as published at www.11er.at/en/agb, applies to all contracts concluded by 11er as a purchaser or requisitioner of goods and/or services. By accepting the order, the Supplier acknowledges the validity of these GTC. The Supplier's GTC are herewith expressly excluded.

The respectively valid version of these General Terms and Conditions, as published at www.11er.at/en/agb, shall also apply to all future business transacted with the Supplier.

Art. 2 Offers and Prices

All offers by Suppliers shall be made free of charge.

The prices agreed are fixed; any requests for additional payment by the Supplier shall be refused. The prices quoted shall include packaging and transport costs to the respective destination.

Art. 3 Orders

Orders must be placed in writing and immediately confirmed by the Supplier in writing. Verbal orders and modifications/additions to orders shall only be binding if confirmed by 11er in writing. Fax and e-mail communications are also deemed to fulfil the written form requirement.

Service descriptions, drawings, information on weight, dimensions and consumption, and raw material/product specifications provided by the Supplier are binding and are deemed to constitute a quality agreement.

Art. 4 Subcontractors

Subcontractors may only be engaged if written consent is obtained from 11er beforehand. Subcontractors must be named in the offer. Information about the scope of the goods and services

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Raiffeisenlandesbank Vorarlberg
Waren- und Revisionsverband
reg. Gen.m.b.H. in Bregenz
IBAN: AT17 3700 0000 0002 5023
BIC: RVVGAT2B

UID-Nummer:
ATU64421806
Firmenbuch:
FN 207308s
Landesgericht Feldkirch

supplied by the subcontractor(s) shall be provided. All obligations relating to the subcontractors' tasks imposed on the Supplier by 11er shall be transferred to the subcontractors by the Supplier, who shall also ensure that they are met.

The Supplier may not prevent the subcontractors from concluding agreements with 11er relating to other goods/services.

Art. 5 Delivery

Deliveries must be made punctually and comply with the agreements made in terms of type, scope and scheduling. Consignments shall be sent to 11er's headquarters insofar as no other destination has been agreed in writing.

Unless otherwise agreed, deliveries shall only be accepted during 11er's business hours.

With each delivery, the Supplier shall supply delivery notes providing detailed information of the content and giving a complete order reference. The Supplier shall also supply a certificate of origin or a movement certificate for the goods in cases where they are covered by a preferential agreement and autonomous preferential measures are to be adopted. If the import of the goods depends on them being registered, the Supplier shall ensure that the relevant conditions are met and measures implemented.

The order numbers given to the Supplier, the designated recipients, and the correct place of receipt for the goods shall be cited in all transport documents. If this information is missing or incomplete, the Supplier shall undertake to reimburse the costs incurred by the delay in processing.

Only environmentally friendly packaging materials that constitute no health hazard may be used. The goods must be packed in such a way as to prevent damage in transit.

The goods must be transported in such a way as to prevent damage or deterioration en route to their destination. Public law regulations and/or individual delivery agreements, e.g. pertaining to the transportation of frozen goods, must be complied with.

In cases where goods to be delivered must be packaged or labelled in compliance with special national or international transport regulations, the Supplier shall undertake to comply with these regulations without being expressly requested to do so.

The Supplier shall undertake to comply with all statutory regulations, official instructions and, most particularly, with all food, hygiene and other laws when delivering the goods.

The Supplier's obligation to accept returned packaging is regulated by law.

Art. 6 Partial and Surplus Deliveries

Partial deliveries may only be made if 11er's consent is previously obtained in writing. In such instances, the quantity still outstanding must be specified on the delivery note. In the event of 11er accepting partial deliveries without agreeing thereto in advance, this acceptance shall not cause payment to become due at an earlier date and does not constitute an agreement to bear additional transport costs.

11er reserves the right to accept short or surplus deliveries in individual cases. If surplus deliveries are sent without 11er's prior written consent, 11er shall be entitled to refuse acceptance of the entire consignment.

If it were unreasonable or impossible to divide the quantities in practical terms, 11er shall be entitled to store surplus deliveries at the Supplier's expense or to return them at the Supplier's risk and expense.

Art. 7 Dates and Deadlines

The receipt of defect-free goods at the destination and their acceptance by 11er is decisive for the establishment of compliance with agreed delivery dates and deadlines.

As soon as the Supplier becomes aware that agreed dates and deadlines cannot be met or can only be met in part, the Supplier shall notify 11er thereof giving the reasons and the predicted duration of the delay. However, this notification does not exempt the Supplier from fulfilling its contractual obligations, and 11er shall still be entitled to make use of all legal remedies on the grounds of delay.

Art. 8 Performance Obligations, Quality Issues, Inspection Duties and Duties of Care for Foods

Food suppliers shall undertake to deliver goods that match the samples, raw materials specifications and any other specifications on which the contract is based. When delivering food, the relevant hygiene regulations at the delivery location must be complied with to ensure that the quality of the food remains impeccable. If so requested, the Supplier shall provide 11er with evidence that these regulations have been complied with.

In particular, the Supplier is liable for ensuring that the goods have the agreed properties when the risk passes to 11er. In all cases, the product descriptions that constitute part of the respective contract or are integrated into the contract in the same way as these Terms of Purchase are likewise deemed to constitute an agreement on the nature of the goods. It makes no difference whether the product descriptions are compiled by 11er, the Supplier, or the manufacturer. The Supplier shall assume a quality and shelf life guarantee. The Supplier shall thus guarantee the quality of the goods and that the goods shall retain the contractually agreed quality for a contractually defined period (shelf life guarantee).

If a shelf life guarantee has been assumed, it shall be presumed that any material defects arising during the guarantee period shall be covered by the rights in the guarantee.

11er shall be entitled to request samples from the Supplier at the Supplier's expense at any time; this applies in particular to foods and packaging. Moreover, 11er shall be entitled to make inspections within the Supplier's sphere of influence and that of the Supplier's suppliers, i.e. of the fields, barns, production sites and warehouses, without giving prior notice. If applicable, the Supplier shall ensure that 11er is granted corresponding rights by the Supplier's suppliers. These inspections shall be purely for orientation purposes and shall not anticipate the inspection of incoming goods, meaning that claims relating to defects found during the inspection of incoming goods may be asserted in full.

11er is specially committed to environmental protection. The Supplier shall generally undertake to comply with the environmental protection regulations applicable in the Supplier's country. Moreover,

the Supplier shall undertake to avoid or minimise environmental pollution in its sphere of influence and to improve environmental protection on an ongoing basis. The Supplier shall also undertake to assist 11er with the collection of data for compiling ecological assessments as best as possible.

11er welcomes the introduction of quality, environmental, and social standards and norms applicable both nationally and internationally (e.g. IFS, UN global compact, ÖkoProfit, etc.).

Art. 9 Warranty

11er is entitled to request the remedy of defects or replacement of the goods at its discretion. In such instances, all expenses incurred while remedying the defect(s) or providing the replacement shall be borne by the Supplier. 11er expressly reserves the right to claim compensation, particularly on the grounds of non-performance.

In the case of defective goods, if the Supplier fails to meet its obligations in full (e.g. remedy of defects or replacement of goods) within an extension period granted by 11er, 11er shall be entitled to order goods of the same type from a third party at the Supplier's expense and risk. 11er may also choose to assert its statutory rights to claim a price reduction or withdraw from the contract. The Supplier shall also be fully liable for compensation if these options are chosen.

Claims for defects shall not be limited even in the event of 11er failing to notice the defect on concluding the contract due to gross negligence.

Art. 10 Complaints

11er shall be deemed to have fulfilled its duty to give notice of defects if the Supplier is notified within 8 days of the goods being delivered. However, this only applies to defects that are recognisable on the outside. 11er shall be entitled to lodge complaints relating to concealed defects within 8 days of their discovery.

If 11er lodges a complaint, refuses to accept or returns the goods, the Supplier shall undertake to retain an adequate sample of the returned or unaccepted goods for inspection until such time as the defects have been clarified.

Art. 11 Liability and Compensation

All exclusions or limitations of liability in the Supplier's terms and conditions are void. In the event of defects or guarantee claims, the rights stipulated by law shall constitute 11er's minimum entitlement; any additional guarantees shall remain unaffected.

Moreover, the Supplier shall be liable as per these Terms and Conditions and the applicable statutory regulations for intentional behaviour and any kind of negligence, also on the part of the Supplier's representatives, delegates, vicarious agents and/or performing agents. The liability sum cannot be restricted.

Art. 12 Product Liability

In cases where the Supplier is responsible for damage to a product, the Supplier shall undertake to indemnify 11er for third-party claims on first being requested to do so.

In the context of this liability, the Supplier shall also undertake to reimburse any of the expenses specified in contract law and tort law that are incurred by 11er during or in association with any recall measure. Where possible and reasonable, 11er shall notify the Supplier of the subject and scope of the recall measure to be implemented and give the Supplier the opportunity to make a statement. Other statutory claims shall remain unaffected.

Art. 13 Transfer of Risk

Deliveries shall be effected at the Supplier's risk; the transport risk shall only pass to 11er when the goods have been handed over to 11er at the agreed destination and have been accepted by 11er. If no destination has been agreed, the transport risk shall pass to 11er when the goods have been handed over to and accepted by 11er at 11er's headquarters.

The Supplier shall bear the risk of accidental loss/deterioration of the goods until the time they are handed over and accepted.

Art. 14 Invoicing and Payment

Invoices shall be issued after the goods have been delivered in full and without defect, and shall include all the information required by law. VAT must be disclosed separately. Invoices which do not meet these minimum requirements may be rejected by 11er and shall not become due.

Insofar as no alternative has been agreed in writing, payments shall be made within 14 days with a 3% cash discount or within 30 days net. The payment and cash discount deadlines shall commence on receipt of the invoice, yet not before the contract has been executed without error. The invoice shall be deemed to have been paid in due time if 11er instructs the bank to make the payment during the payment run on the last day of the deadline.

The Supplier may not assign, cede or pledge part or all of either the delivery obligation or payment claim associated with this contract to any third party without special written permission from 11er.

Art. 15 Confidentiality and Data Protection

Documents and samples made available to the Supplier by 11er shall be treated confidentially and may not be made available to third parties without the prior written consent of 11er. In the event of the Supplier violating these obligations, 11er reserves the right to request the return of the documents at any time. Any such breach of trust shall also entitle 11er to withdraw from any contracts that have not yet been executed by both parties.

Art. 16 Applicable Law and Place of Jurisdiction

It is herewith agreed that Feldkirch shall be the sole place of jurisdiction for any legal disputes arising between 11er and the Supplier. Only Austrian law shall apply.

Art. 17 General

If 11er's General Terms and Conditions are also published in other languages and there are any discrepancies between the different language versions, the German version shall be decisive.

