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Key Terms & Conditions - HelloFresh 2020

All key terms and conditions listed in this document apply to orders placed by HelloFresh Canada Inc or Chefs Plate for the duration of 2020, spanning any contracts that begin, end, or are active during 2020.

1. Contracted prices are valid from the 'start date' to 'finish date' specified for each commodity as indicated on the contracted ingredient list, which is defined as an RFP award sheet or a weekly bid award. Contracted prices are conditional on approval of product samples and specifications by HelloFresh. Specifications must include type of packaging, material, perforation type, and country of origin, for any packaged produce, fruit, or herbs.
2. No fresh cut product should start to be processed any earlier than 24 hours before the scheduled delivery of that order to HelloFresh. For multiple deliveries scheduled in one week, each delivery is treated as a separate order.
3. Supplier agrees to deliver, at the agreed price, up to 125% of volume on the last forecast before the Purchase Order is sent out.
4. OTIFIQ (On Time, In Full, In Quality) responsibility
 - 4.1. Supplier is required to complete delivery within the delivery window specified on the Purchase Order ("PO"). Standard delivery windows will be a 2-hour period, agreed upon between HelloFresh and Supplier. Supplier will receive a 30-minute "grace period" after the delivery window has closed.
 - 4.2. Late Delivery – also understood as not "On Time"; refers to instances where a delivery is received later than the 30 minute grace period. In this event, late delivery fees may be charged to the Supplier reflective of the costs of the impact to HelloFresh production (up to \$500 / hour). In the case of extenuating circumstances outside of the Supplier's control, the late delivery fees may be assessed to be dismissed, subject to the early communication of the circumstance to HelloFresh.
 - 4.3. Short Delivery – also understood as not "In Full"; refers to instances when the volume or quantity of conforming Products received at HelloFresh is not in accordance with the PO. In the event that Supplier is unable to remedy the short within 3 hours, or otherwise mutually agreed timeframe not to be less than 3 hours, Supplier shall be liable for the costs incurred by HelloFresh to source the product elsewhere. Such costs may include, but are not limited to: incremental unit cost, inbound freight charges, labour incurred by sorting product, and rush delivery charges.

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- 4.4. Out of Specification – also understood as not “In Quality”; refers to instances where upon receipt of a delivery, Product does not conform to the specification sheet provided by HelloFresh to Supplier upon award. Out of spec product will be recorded as a short delivery.
- 4.5. HelloFresh reserves right for 24 hour QA review period upon delivery (whether 3rd party or Supplier delivers), Supplier shall remain liable for product until QA review period ends. If product is deemed to not comply with mutually agreed specifications, HelloFresh reserves right to reject product within QA review period. Supplier has 12 hours after communication of the rejection to respond that they would like to be returned the rejected product, otherwise HelloFresh reserves right to discard of rejected product. HelloFresh shall not be liable for transport costs to return rejected product.
- 4.6. HelloFresh requires 100% of contracted goods to be without defect. If Product shipped is known to contain defects, an amount equal to the percentage of defective Product must be shipped in addition to the amount stated in the PO to ensure that HelloFresh receive at least 100% of the ordered, conforming goods. Total volume of the delivery is not to exceed 115% of the amount stated in the PO, including both conforming and defective products. In the event that Supplier is unable to remedy the out of spec delivery by delivering the quantity and Product specifications specified in the PO within 3 hours or otherwise mutually agreed timeframe not to be less than 3 hours, Supplier shall reimburse HelloFresh for its costs incurred for extra labour to sort product (\$35.40 / labour hour), or for incremental costs to source the undelivered Product elsewhere.
- 4.7. Unless otherwise agreed, the size of the products must be within 10% of the specified target weight.
- 4.8. HelloFresh reserves the right to reject an entire shipment in severe scenarios that compromise the entire shipment. These extreme situations include, but are not limited to:
 - 4.8.1. Live infestation and/or food safety contamination of the shipment;
 - 4.8.2. Severe physical damage to the shipment;
 - 4.8.3. Poor delivery vehicle/trailer condition (water damage, mould, infestation, foul smell, etc.);
 - 4.8.4. Shipment is delivered in a vehicle/trailer that was used for delivering shipments other than produce and/or food (i.e. meat, waste, chemicals);
 - 4.8.5. Reefer temperature is set and operates at a temperature of above 4°C or below 1°C, or outside of other such mutually agreed specification.

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5. Miscellaneous Representation and Warranties

- 5.1. Supplier will immediately establish and at all times maintain a quality control system, for the manufacturer of all Products, which is subject to audit and approval by HelloFresh.
- 5.2. HelloFresh reserves the right to cease purchase of goods from Supplier, before the end of the term, if Supplier fails to meet their OTIFIQ targets, which shall be mutually agreed-to between the parties.
- 5.3. This Agreement may be terminated immediately by either party in the event that the other party is in material breach of the terms of this Agreement.
- 5.4. The party wishing to terminate the agreement or the party in violation of the terms of the agreement resulting in the termination of the agreement shall assume responsibility for paying for and disposing of the HelloFresh unique packaging material inventory. In the event of termination by supplier, the supplier is obligated to dispose of or deliver to HelloFresh all remaining HelloFresh unique packaging material free of charge (including any delivery cost). In the event of termination by HelloFresh, HelloFresh reserves the right to acquire all remaining HelloFresh unique packaging material at an agreed-upon price per impression.
- 5.5. Supplier warrants and represents that at this time and at all times that this Agreement is in effect: (a) it will be operating in accordance to all applicable Federal, Provincial and local regulatory requirements, including without limitation in accordance to all labeling, health and safety requirements; (b) it will be registered with the CFIA and/or USDA and/or FDA as required; and (c) it will be in full compliance with all applicable Health Canada, CFIA, FDA and USDA standards. If HelloFresh, Supplier, or any governmental authority consider it necessary or appropriate, either in response to government action or otherwise, to recall any products due to Supplier's negligence or other failure to comply with the terms of this Agreement, including but not limited to the requirements set forth in the Safe Food for Canadians Act or Regulations or the Food and Drug Act or Regulations, as applicable, Supplier shall be responsible for all damages and costs of such recall and recovery, including, without limitation, loss of products, transportation of products, any refunds provided to affected customers, any reasonable credit, as determined by HelloFresh, provided to affected customers, notices and communications necessary or appropriate to effecting such recall, and all costs and expenses (including without limitation reasonable in-house and outside attorneys' fees and costs) incurred in defending actions brought in connection with such recall. If Supplier has reason to believe that any products are or will become non-compliant in any way, Supplier shall immediately notify HelloFresh to discuss the noncompliant products prior to notifying any regulatory authorities (except as otherwise required by law).

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6. Force Majeure - any delay or failure of either Party to perform its obligations under this Agreement will be excused to the extent that the delay or failure was caused directly by an event beyond such Party's control, without such Party's fault or negligence, and that by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable (which events may include, but are not limited to, natural disasters, embargoes, explosions, riots, wars, or acts of terrorism) (each, a "Force Majeure Event"). Supplier's financial inability to perform, changes in cost or availability of materials, components, or services, market conditions or supplier actions, or contract disputes will not excuse OTIFIQ performance by Supplier under this Section. Supplier shall give HelloFresh prompt written notice of any event or circumstance that is reasonably likely to result in a Force Majeure Event, and the anticipated duration of such Force Majeure Event. Supplier shall use all diligent efforts to end the Force Majeure Event, ensure that the effects of any Force Majeure Event are minimized and resume full performance under this Agreement.

In signing below, Supplier agrees to all terms and conditions outlined in this document.

August's HARVEST INC.
Supplier

Dec 23 - 2019
Date


Signature

Warren Han Pres - Own
Printed Name & Title