

General Terms and Conditions of Sales and Payment for Sales Transactions

§ 1

Scope of conditions

- (1) Any declarations of intention, in particular offers, receipts and confirmations made by the companies of the Champignon Group (hereinafter referred to as: CU); consisting of Käserei Champignon Hofmeister GmbH & Co. KG (also under Theo "Alpavit" brand), Hofmeister Käsewerk und Co. KG, Mang Käsewerk GmbH & Co. KG and Molkerei Hainichen Freiberg GmbH & Co. KG as well as all deliveries and services rendered by CU shall only take place on the basis of these General Terms and Conditions of Sales and Payment in the current version applied by CU. These conditions shall also apply to all future business relations without the necessity to confirm them once more. No later than with the fulfillment of an order, does the contractual partner also sustain it for subsequent deliveries. Deviating, opposing or supplementary terms of the contractual partner shall only be effective if CU has explicitly confirmed them. Otherwise they have no validity, even if they have been communicated to CU by the contractual partner or are otherwise known to CU. Counter-confirmations on the part of the contractual partner referring to its terms of business or purchasing shall be hereby excluded. The latest versions of the terms and conditions shall be made available to the contractual partner upon request.
- (2) Unless otherwise agreed, the current specifications of CU shall apply to the object of purchase at the time of contract conclusion.
- (3) Any references to legal provisions in these terms and conditions shall only have clarifying significance. Even without such clarification, the legal provisions shall therefore apply unless directly amended or expressly excluded in these terms and conditions.

§ 2

Contract conclusion

- (1) Contracts shall only be deemed effective if they are made in writing. This does not apply to agreements or supplements made after contract conclusion. All agreements made between CU and the contractual partner for the purpose of performance of a contract shall be recorded in writing. Agreements, modifications or amendments to contracts shall only be legally effective if explicitly confirmed by CU.
- (2) Unless specifically stipulated as otherwise in particular, offers of CU shall be subject to confirmation and non-binding. Statements of acceptance and all orders require written confirmation (directly or by fax or telex) on the part of CU to become legally valid. The contractual partner is obligated to inspect the confirmation immediately upon receipt in terms of accuracy, in particular with regard to quantity, quality, time and price. Any deviations as well as any uncertainties must be reported in writing immediately.
- (3) Measurements, weights, quality and quantity specifications, delivery date and delivery location, quality controls and samples are only legally binding if this has been explicitly agreed upon. Quality specifications and product specifications only serve as a product description, and do not represent, unless otherwise formally agreed, any information on properties nor agreements regarding condition, nor condition or shelf-life guarantees.
- (4) If nothing else has been agreed in the particular case, prices ex works and excl. VAT shall apply. Any customs duties, fees, taxes and other public charges shall be borne by the contractual partner.
- (5) The employees of CU are not entitled to make any verbal side agreements or any verbal statements on condition, condition agreements or condition or shelf-life guarantees.

§ 3

Delivery dates, delivery time, delivery in installments

- (1) Delivery periods and delivery dates are only binding if they have been explicitly confirmed by CU as such. Delivery dates and delivery periods must be specified in writing. Any additional costs that arise for CU that can be attributed to the culpable delay of a binding delivery date by the contractual partner, e.g. late loading of a truck, shall be borne by the contractual partner.
- (2) Delays in delivery and services as a result of force majeure and events which render the provision of the service significantly more difficult or impossible for CU - in particular strikes, lockouts, official decrees, difficulties with regard to energy supplies and materials, accidents, unpredictable manufacturing difficulties as well as other operational failures not of one's own fault, including if these occur with suppliers or subcontractors of CU, are not the responsibility of CU even if binding dates and deadlines have been agreed on. Delivery periods are automatically extended by the duration of the hindrance plus an adequate period of grace. In all cases, a grace period of 30 work days shall be granted for all agreed dates or periods.
- (3) If the hindrance for which CU is not responsible lasts longer than 3 months, CU shall be entitled to rescind the contract wholly or in part in respect of the part of the contract not yet performed. The same applies after having granted a grace period of 2 weeks for the contractual partner. CU may only refer to the circumstances named if it has immediately advised and informed the contractual partner. The contractual partner is only entitled to claims for damages where the preconditions for such are met subject to the provisions § 8 of these contractual terms.
- (4) Should CU, because of any reason controlled by CU, default with deliveries, the contractual partner shall be entitled to rescind the contract if it has granted written notice of an adequate grace period. The contractual partner is only entitled to claims for delays where the preconditions for such are met subject to the provisions § 8 of these contractual terms.
- (5) CU is entitled to effect partial deliveries and partial performance at any time, insofar as this is objectively reasonable for the contractual party. If the parties agree to the delivery of a predefined total quantity on call, the contractual partner is not entitled to recall the total quantity or an essential part without the consent of CU.
- (6) The observance of delivery and service obligations by CU is stipulated by the timely and proper fulfillment of the contractual partner's obligations.
- (7) If the contracting party fails to accept the goods or services supplied or violates other duties to cooperate, CU shall be entitled to claim damages from the contractual party including any additional expenses. If the contractual partner fails to accept the goods, CU shall be entitled to rescind the contract following a granted grace period of one week, and to claim damages from the contractual party. CU is entitled to sell the non-accepted goods to other parties and to claim the difference of the proceeds of sale as damages from the contractual partner, the minimum damage shall amount to 30% of the original sales price, unless the contractual partner proves that a lesser damage or no damage has been incurred to CU.

§ 4

Delivery, transport risks, pallet exchange

- (1) The INCOTERMS® 2010 apply.
- (2) Unless otherwise agreed, the risk, in particular the risk of incidental demise and merchandise deterioration of the goods, shall be transferred to the contractual party as soon as the goods have been handed over to the person in charge executing the transport, or leave CU's warehouse for the purpose of shipment. If the contractual party is directly supplied by a sub-supplier of CU, the risk shall be transferred with the handover of the goods by the person executing transport on the part of the sub-supplier of CU. If dispatch becomes impossible without any fault attributable to CU, the risk passes to the contractual party as soon as he has been informed that the goods are ready for dispatch. The remittance of the invoice represents the notification of the readiness for dispatch. The same shall apply to default of acceptance by the contractual partner.
- (3) Unless otherwise agreed, the Europool pallets used for transport by CU are not included in the sale. They must be replaced by the contractual partner, pallet for pallet (i.e. at delivery) against a respective number of pallets of the same quality and safety standard. If the contractual party fails to comply with these obligations or the pallets are lost, CU is entitled to charge the value of the pallets to the contractual party.
- (4) CU is only obligated to submit documents other than the delivery note and analysis certificate to a delivery following explicit consent. Additional documents may be billed accordingly.

§ 5

Notice of defect and guarantee

- (1) The contractual party is obligated to inspect the goods immediately upon receipt and to notify CU of any defects or quantity deficits immediately, but no later than a cut-off period of 6 days, by submitting a respective detailed notice in writing. Any defect that could not be detected by a thorough examination within this period shall be notified to CU in writing immediately after detection. Warranties can no longer be claimed for defects following combination, confusion or further processing of the goods, which would have been detectable during the inspection of the goods delivered by CU or the inspection of the combined, mixed or further processed product.
- (2) In the event of a defect, CU is entitled to elect to remedy the defect or provide a replacement. If the attempt to remedy the defect fails or if CU is not prepared or able to make a replacement delivery or if the delay is inappropriately long for reasons caused by CU, the contractual party is entitled to demand a reduction of the purchase price or to rescind the contract. CU is entitled to make the owed supplementary performance dependent on the condition that the contractual party performs his duty of payment. The contractual party however is entitled to the right to retain a portion of the purchase price appropriate in relation to the defect. The contractual party shall allow CU the necessary time and opportunity for due supplementary performance and shall in particular hand over the goods concerned for inspection. In the event of a replacement delivery, the contractual party must return the faulty object to CU in line with statutory regulations.
- (3) Further-reaching claims on the part of the contracting party, in particular claims for damages shall only be applied in accordance with the conditions laid down in § 8 of these contractual terms.

- (4) Quality assessment of the goods may only be performed by a dairy research and testing facility (e.g. MUVA Kempten) or a comparable, state-recognized institute, to be selected and determined by CU.
- (5) Warranty claims of the contractual partner are subject to a limitation period of 12 months following delivery unless statutory laws provide a shorter period limitation. This also applies to claims for damages, unless these are excluded by § 8 of the Limitations.

**§ 6
Retention of title**

- (1) All goods delivered to the contractual partner shall remain the property of CU until full payment of all receivables owed to CU (goods subject to retention of title). In current account transactions, the retained title will be considered as security for the remaining balance due. If bills of exchange or checks are given in payment, the sum is only deemed duly paid when the same have been credited. If the contractual party offsets the receivables owed to CU from goods deliveries by refinancing them with bill of exchanges or checks, ownership of the delivered goods shall be reserved until the bills of exchange issued by CU have been paid and the endorser's liability of CU has expired.
- (2) The processing of the delivered goods shall be performed for CU as manufacturer. Expectations of the contractual partner to the goods shall extend to the altered object. If goods are mixed with other goods not belonging to CU or combined to create a new object, the contractual party shall transfer to CU for the purpose of securing the receivables owed to CU, the (co)-ownership of the new object in relation to the value of the goods subject to retention of title in proportion to the other processed or mixed goods, under the provision that the contractual partner holds the "co-ownership" for CU in custody. This shall also apply if the objects belonging to the contractual party are regarded as main items.
- (3) The contractual partner is entitled to process and sell the goods subject to retention of title in the course of orderly business transactions, as long as he is not in default with his performance toward CU. Pledges or security transfers of the products subject to retention of title by the contractual partner are not permitted. By way of security, the contractual party already now assigns to the CU accounts receivable (including balances due from a current account) arising from reselling or from some other legal basis (insurance, tort) in respect of goods under reservation of title. CU revocably authorizes the contractual party to collect the receivables assigned to CU on account of CU in the contractual party's name. Such collecting power may only be revoked if the contractual party fails to properly fulfill payment obligations. After revocation of this collecting power, the contractual partner is obligated to report third-party debtors and their receivables to the CU and notify the latter of the assignment of the claim.
- (4) In the event of claims by third parties on the goods subject to retention of title, in particular in the case of attachment, the contractual party must state that it is the property of CU, and inform CU immediately. As long as the third party is unable to reimburse CU for the legal costs incurred in this connection, the contractual party shall be liable for such costs.
- (5) In the event the contracting party breaches the contract, particularly in the event of a default in payment, CU shall be entitled to secure and collect the goods, or to claim from contractual partner the assignment of the claim of the return of the property vis-à-vis third parties. If CU reclaims or attaches the reserved goods, this shall not constitute rescission of the contract.
- (6) Upon the request of the contractual partner, CU shall release and transfer to the contractual partner all previously stated securities at its own discretion, to the extent that the nominal value of the securities enduringly exceeds the claims by CU by more than 20%.
- (7) The contractual partners must handle the goods in (co)-ownership with CU with due care; and agrees in particular to insure them adequately at his own cost at the original value against damage by fire, water and theft. The contractual partner must immediately inform CU of any events that may impair the goods subject to retention of title or assigned claims (e.g. attachments, insolvency). Any intervention costs arising from this shall be borne by the contractual partner.

**§ 7
Customs clearance**

- (1) To the extent that the contractual partner exports the goods himself or commissions a company to do so, he shall be obligated to handle the documents required within the framework of Customs and Market Regulation Laws with the necessary care and to submit them completed and on time to the responsible authority for further customs processing. The contractual partner is liable for the conduct of companies commissioned by him or on his behalf, in particular for carriers and freight forwarders.
- (2) The contractual partner is liable for damages toward CU arising from documents specified in para. 1 not being submitted completely or being submitted late, causing loss of contributions, tax refunds and the like, and/or other consequential damages for CU.
- (3) The contractual partner is liable toward CU for any form of reimbursement-damaging action within the meaning of the Market Regulations Laws. The contractual partner is also liable for the conduct of companies commissioned by him or on his behalf, in particular carriers and freight forwarders.

**§ 8
Limitation of liability**

Any claims of the contracting partner toward CU and/or their vicarious agents, for whatever cause in law, shall be excluded. This however shall not apply to any culpable violation of a material contractual obligation (cardinal obligation) on the part of CU. In any case, liability shall be limited to damages typical for the concrete violation of a material contractual obligation that is predictable by CU and, in particular, is adequate in terms of the value of the delivery item. The above limitations do not apply to damage claims according to the Product Liability Act, nor do they apply to any damages to life, body or health which result from culpable violation on the part of CU's duties or its legal representatives and vicarious agents as well as any other damages that are caused by grossly negligent risk or intentional breach of duties by CU or its legal representatives and vicarious agents.

**§ 9
Payment**

- (1) The invoice is issued on the date the goods are delivered or made ready for collection. Should the contractual party disagree with the content of the invoice, he must report this to CU in writing within a cut-off period of one week. After this period, the invoice shall be deemed as accepted.
- (2) Unless otherwise agreed, invoices issued by CU shall be payable within one week without deduction.
- (3) Payment shall not become effective until CU can freely dispose of the respective sum. In the event of payment by check, payment shall not be considered as effected unless the check has been cashed.
- (4) CU is entitled, notwithstanding any deviating terms of the contractual partner, to charge the payment to its previous debt. If costs and interest have already occurred, CU is entitled to first credit the payment to the costs, then to the interest, then to the principal claims. CU must inform the contractual partner of deviating appropriations.
- (5) CU is entitled to refuse the acceptance of checks or bills of exchange. Any acceptance shall only be in lieu of payment. Discount charges and other costs shall be borne by the contractual partner and are payable immediately.
- (6) If payment of the invoice amount is not settled within one week of the invoice, the contractual partner shall be deemed in default of payment and must pay interest in arrears according to the legally applicable interest rate. This shall be without prejudice to the right to claim any further damage. A reminder need not be sent by CU to justify the obligation to pay interest, unless the receivables do not come from a reciprocal commercial transaction. With the exception of the first reminder, reminders shall receive an additional charge of EUR 3.00 each; the enforcement of higher reminder charges is at the discretion of CU.
- (7) If circumstances that put the creditworthiness of the contracting party into question become known to CU, especially if the contracting party does not cash a check or fully or partially ceases payments, or if the credit agency of CU issues a negative rating about the contractual partner, CU shall be entitled to serve the whole remaining debt as due, also if checks were accepted. In such a case, CU is also entitled to demand stage-by-stage services, down payment or securities. If the contractual party fails to meet CU's demand for performance upon tender of counter performance, down payment or securities within a period set by CU of 2 weeks, CU is entitled to rescind the contract or file for damages due to violation of duties (§280 et seq. BGB)
- (8) The contractual partner shall only be entitled to set off, withhold or reduce payments, even if notice of faults or counterclaims have been raised, if the relevant counterclaims are res judicata or are undisputed. The contractual partner however is always entitled to withhold performance where the counterclaims in question originate from the same contractual relationship.

**§ 10
Data protection**

CU is entitled to store, process data about the contractual partner and to transfer this data to third parties, to the extent that this is deemed necessary within the framework of a contract or a contract-like relationship of trust or to serve the legitimate interests of CU, a third party or the general public.

**§ 11
Applicable law, place of jurisdiction, partial invalidity**

- (1) All terms and legal relations between CU and the contractual party shall be governed by the laws of the Federal Republic of Germany with exclusion of the Uniform UN convention on Contracts for the International Sale of Goods (CISG).
- (2) Provided the contractual party is a commercial trader as defined in the HGB [German Commercial Code]), legal entity under public law or special fund under public law, the place of jurisdiction shall be Kempten for any and all disputes in direct or indirect connection with a contractual relationship with Käserei Champignon Hofmeister GmbH & Co. KG and Alpavit, with Mang Käsewerk GmbH & Co. KG, Hofmeister Käsewerk GmbH & Co. KG as well as Molkerei Hainichen-Freiberg.
- (3) If a provision of these general terms and conditions or a provision within the framework of other agreements is or becomes invalid, the validity of the remaining provisions or agreements will not be affected hereby.