



CHAMPIGNON-HOFMEISTER GROUP (CU) TERMS AND CONDITIONS OF PURCHASE AND PAYMENT

(August 2016)

§ 1

Validity of conditions

- (1) All offers, acceptances and confirmations of Käserei Champignon Hofmeister GmbH & Co. KG, Alpavit, Hofmeister Käsewerk GmbH & Co. KG, Mang Käsewerk GmbH & Co. KG and Molkerei Hainichen Freiberg GmbH & Co. KG (hereinafter: CU) and all deliveries and services of the supplier are based solely on these purchase and payment conditions. They also apply to all future business relations even if they are not expressly agreed upon again. With the execution of the order, the supplier accepts these for the following deliveries at the latest. Differing terms and conditions of the supplier do not come into effect. Any confirmation of the supplier with reference to his general terms and conditions of sale is hereby contradicted.
- (2) All agreements that are made between CU and the supplier with regard to execution of the contract must be stipulated in the contract in writing. An agreement annulling the written form requirement demands the written confirmation of the contracting parties to be legally valid.

§ 2

Conclusion of contract

- (1) Only written orders and offers are binding for CU. Acceptance declarations of CU require written or electronically written confirmation to become legally effective. In this case the supplier is under the obligation to check the confirmation immediately upon receipt for its completeness especially with regard to quantity, quality, time and price and to immediately inform about deviations and uncertainties in writing.



- (2) Additions, modifications and supplements to an agreement shall only be effective if they have been approved by CU in writing. An agreement annulling the written form requirement demands the written confirmation of the contracting parties to be legally valid.
- (3) Size, weight, quality and quantity specifications, delivery date and place of delivery, quality checks and samples are binding for the supplier if agreed. Quality specifications of CU are based on the Quality Description System customary for the Dairy Analysis and Research Institute (hereinafter called as MUVA) in Kempten or on the company standard of CU. They are also binding for the supplier.
- (4) The company standard of CU is part of the relevant order. It is known to the supplier. However on his request it can be sent to him once again any time.
- (5) The supplier shall accept the liability of the Combined Nomenclature code currently specified to him and of the market organisation article list numbers for licence applications or quality description for determining the relevant Combined Nomenclature code and market organisation article list numbers.

§ 3

Delivery, transport hazard

- (1) Delivery periods and dates agreed upon must be observed at all costs. Default in delivery is said to occur when the articles are delivered after the expiry of fixed date.
- (2) As soon as the supplier has to expect that he is unable to observe the delivery dates agreed upon, he must immediately notify the reason and the expected duration of delay in writing.
- (3) Day of delivery is the day on which the articles are fully delivered to the place of delivery specified along with all the dispatch papers, drawings and complete documentation as well as data sheets or on which the services to be provided are accepted.
- (4) If it is impossible or substantially more difficult for CU to fulfil its contractual obligations in the event of force majeure, strike or lock-out, it can rescind the contract in whole or in part or demand its execution at a later date without the supplier thereby acquiring any claims against CU.



- (5) The transport risk is borne by the supplier. § 447 BGB (German Civil Code) is waived. If the goods are damaged during transport because of weather or other transport conditions, the supplier shall bear the resultant costs.
- (6) If the supplier fails to comply with the specified shipping address, CU shall be entitled to reject the goods or forward them to the specified shipping address at the cost of the supplier. Delivery to a shipping address other than the one specified shall not constitute transfer of risk to CU, even if the delivery is accepted at the location.
- (7) If the supplier is entitled for returning the packaging supplies necessary for the dispatch due to the order, all the delivery documents must have a clear corresponding note. If the note is missing, the transport and packaging supplies especially pallets and empties may immediately be disposed by CU. Any claims for return shall lapse.

§ 4

Guarantee and notice of defects

- (1) The supplier must provide his service such that it has the contractually agreed qualities and does not have faults that cancel or reduce the value or suitability for customary or CU's contractually stipulated use. The supplier shall guarantee that his delivery, especially the delivered goods together with packaging, or service complies with the German and European regulations applicable at the time, the recognised rules, state-of-the-art technology and the applicable customary usage in the trade (especially German Foodstuff Code) and the legal or official regulations regarding safety technology, VDE regulations, accident prevention regulations, Food Law and environment protection applicable at the time of delivery or service.
- (2) In particular the supplier shall guarantee that his delivery, especially the delivered goods together with packaging, or service has been processed or handled with the necessary care especially under application of the necessary hygiene and quality checks.
- (3) CU is entitled to undertake sampling for determining the condition of the goods, which can also be conducted after unloading. Unloading goods without prior sampling does not indicate approval of the goods.



- (4) If this is evident for the supplier from the details of the place of delivery and if it is a direct delivery to a third party and not CU, the period for notice of defects in accordance with § 377 HGB (German Commercial Code) is extended by a period necessary for the receiver for proper examination of goods, for the receiver to notify defects to CU and for CU to forward such notice to the supplier. The supplier agrees to the extension of the notice of defects.
- (5) Reports on the quality of goods must be exclusively obtained from a Dairy Analysis and Research Institute (MUVA) to be selected and determined by CU or a similar nationally recognised institute. In case of technical products, the corresponding reports must be obtained from a similar institution especially TÜV. The reports are binding for both sides.
- (6) If the goods for the supplier are sent to a third party and not CU as recognised from the details of the place of delivery and the quality of the goods is rejected by the third party, the goods must be sampled at the place of delivery by a suitable independent facility. If this facility confirms the defectiveness of goods in part or in whole, the goods are transported back to the location of the supplier for complete examination and a comprehensive examination is carried out by the institute specified by CU as per para. (5). If this facility confirms the defectiveness of goods in part or in whole, the supplier shall bear the costs required for the transport of goods to the place of delivery and back, customs, loading and storage and costs for assessment of the institute specified by CU as per para. (5). This is also applicable if the results do not cover or do not fully cover the assessment carried out on-site and at the institute specified by CU as per para. (5).

§ 5

Food Law

- (1) The supplier has to ensure the traceability of food and other substances or products that are intended or reasonably expected to be incorporated into food or ingested by humans in a partially processed or unprocessed form in all production, processing and distribution stages.
- (2) The supplier must be able to trace every person from whom he has received food products, animal feed, a food producing animal or a substance that is intended or expected to be incorporated in a food product or animal feed.



- (3) Food products, animal feed, food producing animals or substances that are intended or expected to be incorporated in a food product or animal feed must be adequately labelled by the seller through relevant documentation or information as per the legal regulations in order to simplify their traceability.

§ 6

Damage claims and contractual penalty

- (1) The supplier shall be liable towards CU for all the damages attributed to the negligent breach of the duty of the supplier. This is especially applicable for deposit losses and subsequent damages that result from delayed or incomplete delivery. A contractual penalty agreed upon for delayed delivery remains unaffected by it. The supplier is also liable for damages arising from the fact the delivered goods do not comply with the Combined Nomenclature code specified by him or the Combined Nomenclature code created on the basis of his quality descriptions. In particular the supplier is responsible for damages arising from the fact that he has violated his obligations according to §§ 4 (1) and (2) and 5 (1)-(3).
- (2) The supplier assigns any existing damage claims against sub-suppliers owing to delayed, omitted, incomplete or faulty delivery as security without having a discharging effect against CU. CU herewith accepts this assignment.
- (3) The supplier is obliged to pay a contractual penalty amounting to 5% of the relevant gross invoice amount of the goods purchased by CU for each case of negligent violation of a contractual obligation. The contractual penalty is 20% of the relevant gross invoice amount in case of negligent violation of a contractual obligation from the field of market regulation especially in cases of §§ 2 (4) and 6 (1).

§ 7

Payment and place of fulfilment

- (1) All prices shall be free place of destination including packaging and insurance. Moreover, they include everything that the supplier has effectuated for fulfilling his delivery obligation at the receipt location agreed upon.



- (2) CU is authorised for fulfilment with payment methods of its choice unless agreed upon otherwise. Upon delivery according to the contract, the payment is made within 21 days after receiving the invoice with a discount of 3% or within 30 days after receiving the invoice without any discount unless agreed upon otherwise. Two separate copies of invoices must be submitted by the supplier. They must contain the order number and number of every single item. Furthermore, sales tax and the agreed discount rates must be shown separately. If this information is missing, the invoices are not payable. Invoice copies must be marked as duplicate.
- (3) CU has the right to offset the amount against claims of the supplier with counterclaims.
- (4) Place of fulfilment for payments of Käserei Champignon Hofmeister GmbH & Co. KG and Alpavit is 87493 Lauben/Allgäu, for payments of Hofmeister Käsewerk GmbH & Co. KG 85368 Moosburg, for payments of Mang Käsewerk GmbH & Co. KG 87754 Kammlach as well as for payments of Molkerei Hainichen Freiberg GmbH & Co. KG 09599 Freiberg. Place of fulfilment for deliveries and other services of the supplier is the place of delivery of the receiving location specified in the order.

§ 8

Data protection and references

- (1) CU is entitled to use data received from the supplier regarding business relation or in association with it regardless of whether it originates from the supplier or a third party in accordance with the Bundesdatenschutzgesetz (Federal German Data Protection Act).
- (2) The supplier may only refer to CU or its trademark as reference if CU has previously approved such reference in writing.



§ 9

Fundamental principles for supplier

- (1) CU has defined strict ethical rules for itself and is guided by these rules in all businesses. CU expects all suppliers to follow these ethical principles in their conduct. They are described in the code of conduct for suppliers http://www.champignon-international.com/en/code_of_Conduct_for_Suppliers. According to this, CU expects all suppliers to comply with all the laws applicable for the suppliers, the fundamental standards for safety at work, health and environment protection, work and human rights as well as regulations of competition and anti-trust law.
- (2) CU is entitled to audit compliance with the code of conduct for suppliers after the announcement or get it audited by a third party.
- (3) CU requests the suppliers to summon sub-suppliers to comply with relevant standards.
- (4) Each violation against the obligations mentioned in the code of conduct for suppliers is considered as a fundamental breach of contract by the supplier.

§ 10

Statutory minimum wage, employee assignment law

- (1) The supplier must ensure that all regulations of the Law for Regulating a General Minimum Wage (MiLoG), especially minimum wage and its amount and payment of social security contributions and taxes are complied with. If the services to be provided include employees deputed in the application scope of the Law concerning the posting of employees abroad (AEntG), the supplier ensures that the stipulated branch minimum wage is paid.
- (2) Within the framework of all contracts with CU the supplier is only entitled to involve subcontractors if CU has approved it in writing. Moreover, the supplier must ensure that third parties employed by him comply with the provisions of MiLoG.



- (3) The supplier releases CU from all claims of third parties against CU arising from the fact that the supplier or a sub-contractor employed by him has violated against regulations of MiLoG or AEntG. The assertion of damage compensation claims owing to further damages is expressly reserved.
- (4) CU is entitled to terminate the contract with the supplier without observing any notice period if the supplier violates obligations resulting from MiLoG or AEntG.

§ 11

Applicable law, court of jurisdiction, partial invalidity

- (1) For these terms and conditions and all legal relationships between CU and the supplier the laws of the Federal Republic of Germany shall exclusively apply with the exception of the UN Law on International Sales ("CISG") and conflict-of-laws rules applicable in Germany.
- (2) If the supplier is a merchant in the sense of the German Commercial Code, a legal person under public law or a special fund under public law, the place of jurisdiction for all the disputes arising directly or indirectly from the contractual relationship with Käserei Champignon Hofmeister GmbH & Co. KG, Alpavit, Mang Käsewerk GmbH & Co. KG, Hofmeister Käsewerk GmbH & Co. KG or Molkerei Hainichen Freiberg GmbH & Co. KG shall be Munich.
- (3) If a provision in these terms and conditions or a provision within the framework of other agreements is ineffective or becomes ineffective in the future, the effectiveness of the remaining provisions or agreements shall not be affected by it.