

## **Pouch Partners GmbH • Rudolf-Wild-Str. 107-115 • D-69214 Eppelheim/Heidelberg**

### **General Terms and Conditions of Sale**

#### **§ 1 Scope, form**

(1) The present General Terms and Conditions of Sale ("GTC") of Pouch Partners GmbH, Rudolf-Wild-Str. 107-115, 69214 Eppelheim / Heidelberg, Germany ("PP GmbH") apply to all business relationships between PP GmbH and its customers ("customers"). The General Terms and Conditions only apply if the customer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.

(2) The General Terms and Conditions apply in particular to contracts for the sale and / or delivery of movable items ("goods"), regardless of whether PP GmbH manufactures the goods itself or buys them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the General Terms and Conditions in the version valid at the time of the customer's order, which can be viewed and accessed on the PP GmbH homepage (<https://pouchpartners.com/>), apply as a framework agreement also for similar future contracts, without that PP GmbH would have to refer to them again in each individual case.

(3) The GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer will only become part of the contract if and to the extent that PP GmbH has expressly agreed to their validity. This consent requirement applies in any case, for example even if PP GmbH carries out the delivery to the customer without reservation, knowing the terms and conditions of the customer.

(4) Individual agreements made with the customer on a case-by-case basis (including side agreements, additions and changes) always take precedence over these GTC. A written contract or written confirmation from PP GmbH is decisive for the content of such agreements, subject to proof to the contrary.

(5) Legally relevant declarations and notifications by the customer in relation to the contract (e.g. setting of a deadline, notification of defects, withdrawal or reduction) must be submitted in writing, ie in writing or text form (e.g. letter, email, fax). Statutory formal requirements and further evidence, especially in the case of doubts about the legitimacy of the declaring party, remain unaffected.

(6) References to the validity of legal regulations only have a clarifying meaning. The statutory provisions therefore apply even without such a clarification, unless they are directly amended or expressly excluded in these GTC.

#### **§ 2 Conclusion of contract**

(1) The offers of PP GmbH are subject to change and non-binding. This also applies if PP GmbH has provided the customer with catalogs, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents - also in electronic form - of which PP GmbH has ownership - and copyright reserved. Any duplication or distribution to third parties is prohibited.

(2) The order of the goods by the customer is considered a binding contract offer. Unless otherwise stated in the order, PP GmbH is entitled to accept this contract offer within 10 days of receipt by PP GmbH.

(3) The acceptance can either be declared in writing (e.g. by order confirmation) or by delivery of the goods to the customer.

(4) Upon PP GmbH's issuance of the order confirmation, the order can no longer be cancelled. If Customer cancels an order, PP GmbH shall be entitled to charge (a) the actual costs incurred by PP GmbH, plus a lump-sum fee of thirty percent (30%) of these actual costs, if Customer cancels the order less than six (6) months after the date of the order confirmation; and (b) the full sales price set forth in the order confirmation if Customer cancels the order six (6) months or more after the date of the order confirmation. The term "actual costs" shall include any reasonable costs incurred to date related to the purchase of physical parts, third-party cancellation costs and penalties, staff working hours as well as any costs that PP GmbH is no longer able to cancel after receipt of the Customer cancellation.

(5) These GTC may cover the provision of various services by PP GmbH to Customer relating to the sale of goods, such as customization, installation, testing, commissioning, start-up of production training (the "Services"). The Services shall be governed by PP GmbH's General Terms of Service and the General Terms of Installation, as available on its website from time to time.

#### **§ 3 Delivery Period and Delay in Delivery**

(1) The delivery period is agreed individually or specified by PP GmbH when the order is accepted. Delivery periods begin after receipt of all the written documents required to determine the content of the order, insofar as the parties have agreed that customer is obliged to make them available, and after receipt of the agreed (down) payment or the confirmed letter of credit. A delivery deadline is deemed to have been met if the goods are ready for dispatch within the deadline and the customer has been informed accordingly.

(2) If PP GmbH cannot meet binding delivery deadlines for reasons for which PP GmbH is not responsible (unavailability or very restricted availability of the goods which is due to Force Majeure, e.g. in the event of war or war-like acts, confiscation, embargo, natural disasters, pandemics (e.g. Corona, Covid 19), quarantine, labor disputes and other circumstances or higher events Violence), PP GmbH will inform the customer about this immediately and at the same time notify the expected new delivery period. If the goods are not available within the new delivery period either, PP GmbH is entitled to withdraw from the contract in whole or in part; PP GmbH will immediately reimburse any consideration already provided by the customer. A case of unavailability of the goods in this sense applies in particular to late self-

delivery by PP GmbH's suppliers, if PP GmbH has concluded a congruent hedging transaction, neither PP GmbH nor PP GmbH's supplier is at fault or PP GmbH is not obliged to procure in individual cases is.

(3) The occurrence of default in delivery by PP GmbH is determined by the statutory provisions. In any case, however, a reminder from the customer is required.

(4) The rights of the buyer according to § 8 of these GTC and the statutory rights of PP GmbH, especially in the case of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of the service and / or subsequent performance), remain unaffected.

#### **§ 4 Delivery, transfer of risk, acceptance, default in acceptance**

(1) Delivery is ex warehouse (EX WORKS - Incoterms 2020), which is also the place of performance for delivery and any subsequent performance. At the request and expense of the customer, the goods will be sent to a different destination (sale by mail order). Unless otherwise agreed, PP GmbH is entitled to determine the type of shipment (in particular transport company, shipping route, packaging) itself.

(2) PP GmbH is entitled to make partial deliveries to a reasonable extent and to issue partial invoices.

(3) The risk of accidental loss and accidental deterioration of the goods is transferred to the customer in line with the agreed Incoterms or, or, if the handover occurs earlier than stipulated by the Incoterms, when the goods are handed over to Customer (or Customer's agent, carrier or freight handler) at the latest. In the case of sales by delivery (Versendungkauf), however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay are transferred to at the moment the goods have been delivered to the freight forwarder, the carrier or the person or institution otherwise assigned to carry out the shipment. If acceptance has been agreed, this is decisive for the transfer of risk. The statutory provisions of the law also apply accordingly to an agreed acceptance. The handover or acceptance is the same if the customer is in default of acceptance.

(4) If the customer is in default of acceptance, if he fails to cooperate or if the delivery is delayed for other reasons for which the customer is responsible, PP GmbH is entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this, PP GmbH calculates a flat rate compensation of 0.5% of the invoice amount for each month or part thereof, starting with the delivery period or - in the absence of a delivery period - with the notification that the goods are ready for dispatch.

(5) Proof of higher damage and the legal claims of PP GmbH (in particular reimbursement of additional expenses, reasonable compensation, termination) remain unaffected; however, the lump sum is to be offset against further monetary claims. The customer is allowed to prove that PP GmbH incurred no damage at all or only a significantly lower damage than the above flat rate.

(6) Both the delivered goods and the software can be subject to the export control regulations of the Federal Republic of Germany, the European Union, the United States of America or other countries. In the event that the delivered goods are later exported abroad, the customer is responsible for compliance with the relevant statutory provisions

#### **§ 5 Prices and terms of payment**

(1) Unless otherwise agreed in the individual case, the current prices of PP GmbH at the time of the conclusion of the contract shall apply, namely ex warehouse EXW (EX WORKS, Incoterms 2020), plus statutory value added tax, whereby the costs for disassembly, packaging, assembly and instruction, as well as all national taxes and fees, shall be added.

In the event of significant price changes due to changes in wage, material and distribution costs, we also reserve the right to change the fixed prices.

(2) In the case of sale by delivery to a place other than the place of performance (§ 4 para. 1), the Customer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the Customer. Any customs duties, fees, taxes and other public charges shall be borne by the customer.

(3) The customer shall draw PP GmbH's attention to the additional standards and regulations applicable in the country of destination at the latest when placing the order. The costs arising from compliance with these regulations shall be invoiced separately by PP GmbH.

(4) Payments shall be made in cash without any deduction to PP GmbH as specified in the invoice. Unless otherwise agreed, payments shall be made by irrevocable letter of credit confirmed by a German bank.

(5) If the delivery will take place more than 4 months after conclusion of the contract, PP GmbH shall be entitled to change the sales prices at its reasonable discretion if changes are justified, e.g. in case of increasing raw material and/or investment costs.

(6) The purchase price shall be due and payable within 14 days from the date of invoice and delivery or acceptance of the goods. However, PP GmbH shall be entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. PP GmbH shall declare a corresponding reservation at the latest with the order confirmation.

(7) In the case of installment payments, PP GmbH shall be entitled to make the entire remaining purchase price due for immediate payment if the Customer is in default with at least two installment payments in succession and the outstanding

amount is more than 10% of the purchase price. Moreover, if the Customer is overdue with any payment hereunder, then without prejudice to the PP GmbH's other rights or remedies, PP GmbH shall have the right to suspend the execution of any pending deliveries on seven (7) days' written notice to Customer until the PP GmbH has received payment of the overdue amount together with any accrued interest and any reasonable legal fees incurred in connection with collecting such overdue amounts; and/or PP GmbH shall have the right to cancel any pending deliveries and/or terminate the agreement with Customer.

(8) Upon expiration of the aforementioned payment period, the customer shall be in default. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate. PP GmbH reserves the right to claim further damages caused by default. With respect to merchants, the claim to the commercial due date interest rate (§ 353 HGB) shall remain unaffected.

(9) The Customer shall only be entitled to rights of set-off or retention to the extent that its claim has been legally established or is undisputed. In the event of defects in the delivery, the Customer's counter rights shall remain unaffected, in particular pursuant to Section 7 para. 6 sentence 2 of these GTC.

(10) If it becomes apparent after conclusion of the contract (e.g. by filing for insolvency proceedings) that the claim of PP GmbH to the purchase price is jeopardized by the Customer's inability to pay, PP GmbH shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), PP GmbH may declare the withdrawal immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.

#### **§ 6 Retention of title**

(1) PP GmbH shall retain title to the goods sold until full payment of all present and future claims of PP GmbH arising from the purchase contract and an ongoing business relationship (secured claims).

(2) The goods subject to retention of title ("Retained Goods") may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Customer shall immediately notify PP GmbH in writing if an application for the opening of insolvency proceedings is filed or if third parties (e.g. seizures) have access to the goods belonging to PP GmbH.

(3) In the event of breach of contract by the Customer, in particular in the event of non-payment of the purchase price due, PP GmbH shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand surrender of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; PP GmbH shall rather be entitled to demand only the return of the goods and to reserve the right of withdrawal. If the customer does not pay the purchase price due, PP GmbH may only assert these rights if PP GmbH has previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.

(4) Until revoked in accordance with (c) below, the Customer shall be entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply additionally.

a) The retention of title shall extend to the products resulting from the processing, mixing or combination of the goods of PP GmbH at their full value, whereby PP GmbH shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, PP GmbH shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

b) The Customer hereby assigns to PP GmbH by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of the possible co-ownership share of PP GmbH in accordance with above paragraph. PP GmbH accepts the assignment. The obligations of the customer stated in paragraph 2 shall also apply in view of the assigned claims.

c) A change of location of the reserved goods shall require the prior written consent of PP GmbH and may only be carried out by PP GmbH employees or by persons commissioned by PP GmbH.

d) The Customer shall keep the reserved goods in perfect condition. Furthermore, he shall insure the reserved goods at his own expense for the benefit of PP GmbH against damage caused by transport, assembly, machine breakage, fire, burglary and mains water. Upon request, the customer must provide PP GmbH with the insurance certificate and proof of payment of the insurance premium.

e) The customer shall allow PP GmbH or persons commissioned by PP GmbH to inspect the goods subject to retention of title and, for this purpose, to enter the premises in which they are located. In doing so, the customer undertakes to provide assistance to PP GmbH free of charge if required.

f) Insofar as the reserved goods are financed by a third party (in particular by means of a financing purchase agreement), the reservation of title shall remain agreed and the rights resulting from the agreement shall continue to exist for PP GmbH until the delivery claim has been paid in full, until the customer has also fully satisfied the claims of the third party in accordance with the provisions of the financing agreement.

g) The Customer shall remain authorized to collect the claim in addition to PP GmbH. PP GmbH undertakes not to collect the claim as long as the Customer meets its payment obligations towards PP GmbH, there is no deficiency in its ability to pay and PP GmbH does not assert the retention of title by exercising a right pursuant to para. 3. If this is the case, however, PP GmbH may demand that the Customer informs PP GmbH of the assigned claims and their debtors, provides all information required for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case PP GmbH

shall be entitled to revoke the Customer's authorization to further sell and process the goods subject to retention of title.

h) If the realizable value of the securities exceeds the claims of PP GmbH by more than 10%, PP GmbH shall release securities of its choice at the request of the customer.

#### **§ 7 Claims for defects**

(1) The statutory provisions shall apply to Customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly or defective assembly instructions), unless otherwise stipulated below. In all cases, the special statutory provisions shall remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier recourse pursuant to §§ 478 BGB). Claims from supplier recourse are excluded if the defective goods have been further processed by the Customer or another entrepreneur, e.g. by incorporation into another product.

(2) Above all the basis for the liability for defects of PP GmbH is the agreement made on the quality of the goods. All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by PP GmbH (in particular in catalogs or on the Internet homepage of PP GmbH) at the time of the conclusion of the contract shall be deemed to be an agreement on the quality of the goods; technical changes or technical improvements or design changes shall be permissible insofar as this is reasonable for the Customer. Documents, such as pictures and drawings, as well as details regarding weight, space, power requirements and economic efficiency are only approximate information and do not represent an agreed quality.

(3) Insofar as the quality has not been agreed, it shall be assessed in accordance with the statutory provisions whether a defect exists or not (§ 434 para. 1 p. 2 and 3 BGB). However, PP GmbH shall not be liable for public statements made by the manufacturer or other third parties (e.g. advertising statements) to which the Customer has not drawn PP GmbH's attention as being decisive for the purchase.

(4) PP GmbH shall in principle not be liable for defects of which the Customer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the Customer's claims for defects presuppose that he has fulfilled his statutory obligations to examine the goods and give notice of defects (§§ 377, 381 HGB). The delivered goods must be carefully inspected and tested by the Customer immediately after delivery by PP GmbH at the Customer's registered office or at any other destination agreed by the parties. Since transport is at the risk and expense of the Customer, the Customer is solely responsible for all defects and damage caused during transport or by transport. In the case of building materials and other goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at any later time, PP GmbH shall be notified thereof in writing without delay. In any case, obvious defects shall be notified in writing within 5 working days from delivery and defects not detectable during the inspection within 2 working days from discovery. If the Customer fails to make the proper inspection and/or notification of defects, the liability of PP GmbH for the defect not notified or not notified in time or not notified properly shall be excluded in accordance with the statutory provisions.

(5) If the delivered item is defective, PP GmbH may initially choose whether PP GmbH shall provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). The right of PP GmbH to refuse subsequent performance under the statutory conditions shall remain unaffected.

(6) PP GmbH shall be entitled to make the subsequent performance owed dependent on the Customer paying the purchase price due. However, the customer shall be entitled to retain a part of the purchase price that is reasonable in relation to the defect.

(7) The Customer shall give PP GmbH the time and opportunity required for the subsequent performance owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the Customer shall return the defective item to PP GmbH in accordance with the statutory provisions. Subsequent performance shall neither include the removal of the defective item nor the re-installation if PP GmbH was not originally obliged to install the item.

The expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs for the place of delivery, unless the delivered goods were taken to another operational installation site of the Customer in accordance with § 6.4.c, as well as any dismantling and installation costs, shall be borne or reimbursed by PP GmbH in accordance with the statutory provisions if a defect is actually present. Otherwise PP GmbH may demand reimbursement from the customer of the costs incurred as a result of the unjustified request for rectification of the defect (in particular inspection and transport costs), unless the lack of defectiveness was not apparent to the customer. The additional costs arising from a shipment of the delivered goods to a place other than the place of delivery not agreed with PP GmbH shall be borne by the customer.

(8) In urgent cases, e.g. if operational safety is endangered or to prevent disproportionate damage, the Customer shall have the right to remedy the defect itself and to demand reimbursement from PP GmbH of the expenses objectively necessary for this purpose. PP GmbH shall be notified of such self-performance without delay, if possible in advance. The right of self-performance shall not exist if PP GmbH would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.

(9) If PP GmbH's subsequent performance has failed or if a reasonable period to be set by the Customer for the subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the

Customer may withdraw from the purchase contract or reduce the purchase price. In the case of an insignificant defect, however, there shall be no right of withdrawal.

(10) Claims of the Customer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with Section 9 s. and shall otherwise be excluded.

(11) Claims for defects are excluded

a) for used goods, unless liability for defects has been expressly agreed in writing;

b) for delivery parts which are subject to premature consumption due to their nature or the way they are used (wearing parts). This shall also apply if such parts have to be replaced within the limitation period for defect claims in accordance with the usual life cycle of such parts;

c) for supplied consumables which are subject to a minor expiration date due to their nature and this expiration date has expired. This shall also apply if such expiration date falls within the limitation period for defect claims.

(12) No defects shall exist if:

a) if the goods delivered by PP GmbH are used in the Customer's business in functional connection with hardware or software components already existing or acquired from third parties, provided that the malfunction is caused by goods not delivered by PP GmbH or their lack of compatibility. Insofar as PP GmbH guarantees compatibility with products of third parties, this shall only apply to the product version current at the time of this guarantee, but not to older or future product versions (updates or upgrades);

b) if a malfunction is due to the fact that the Customer has not ensured compliance with the technical framework conditions specified in the documentation provided and in the supplementary documents;

c) if the malfunction results from the Customer's failure to perform the required maintenance and care specified in the documentation provided to him and in the supplementary materials.

(13) The Customer shall be solely responsible for damage caused by natural wear and tear, faulty or improper handling, excessive use, unsuitable operating materials, an unsuitable installation site, in particular an unsuitable foundation for the installation, lack of stability or unsuitable power supply, chemical, electrochemical or electrical influences, weather and other natural influences.

(14) The following applies to defects in consumables: Upon discovery of defects, the consumables must be separated in the condition in which they were at the time of discovery and kept ready for inspection by PP GmbH. If the customer does not comply with this provision, the goods shall be deemed to have been accepted by the customer in the condition in which they were at the time of delivery, without PP GmbH having to assume any further liability. Article 8, paragraph 5 applies accordingly

#### **§ 8 Spare Parts for Fillers**

(1) If the goods in question relate to filler machinery used for the production of Capri-Sun trademark beverages, PP GmbH may require that certain spare parts be supplied by PP GmbH to ensure proper functionality. PP GmbH retains the right to determine, at its own discretion, whether to supply the these spare parts to Customer directly or to do so through a third-party supplier that meets PP GmbH's quality standards. Customer acknowledges that PP GmbH will not provide any support for the installation or performance warranties with respect to these spare parts if sourced from a supplier.

(2) Customer shall be free to source generic or off-the-shelf components generally available in the marketplace, such as screws, bolts, nuts, and other similar parts held in inventory or otherwise purchased for the purpose of maintaining (wear & tear) and ensuring the continued operation of the Filler.

#### **§ 9 Other liability**

(1) Insofar as nothing to the contrary arises from these GTC including the following provisions, PP GmbH shall be liable in accordance with the statutory provisions in the event of a breach of contractual and non-contractual obligations.

(2) PP GmbH shall be liable for damages - irrespective of the legal grounds - within the scope of fault-based liability in the event of intent and gross negligence, in accordance with the ProdHG and in the event of the issuing of a guarantee promise. In the event of simple negligence, PP GmbH shall only be liable, subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), for

a) for damages resulting from injury to life, body or health,

b) for damages resulting from the violation of an essential contractual obligation (obligation, the fulfilment of which enables the proper execution of the contract in the first place and on the observance of which the contractual partner regularly relies and may rely); in this case, however, the liability of PP GmbH shall be limited to the compensation of the foreseeable, typically occurring damage.

(3) The liability of PP GmbH in case of simple negligence for

a) loss of production, loss of profits, loss of business opportunities, loss of use opportunities, product recall costs recalls (even if PP GmbH itself has initiated this due to misconduct on the part of the Customer), downtime costs, downtime or

waiting times of personnel and contractual penalty or lump-sum damages payable by the customer to third parties as well as for

b) indirect and / or consequential damages, i.e. such damages which

c) do not occur to the goods for the manufacture, maintenance or modification of which the goods of PP GmbH serve, or

d) are not caused directly by the breach of duty but only by the occurrence of a further indirect causal event, or

e) could not have been foreseen by the contracting parties at the time of the conclusion of the contract according to the course of events to be typically expected.

is excluded.

(4) The limitations of liability resulting from paragraph 2 shall also apply to third parties as well as in the case of breaches of duty by persons (also in their favour) whose fault PP GmbH is responsible for according to statutory provisions. They shall not apply if a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the customer under the Product Liability Act.

(5) The customer may only withdraw from or terminate the contract due to a breach of duty which does not consist of a defect if PP GmbH is responsible for the breach of duty. A free right of termination of the customer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

#### **§ 10 Limitation**

(1) Notwithstanding § 438 para. 1 no. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. If acceptance has been agreed, the limitation period shall commence upon acceptance.

(2) If the goods are an item which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provision (Section 438 (1) No. 2 BGB). Other special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) shall also remain unaffected.

(3) The above limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages of the customer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages of the customer according to Section 9 para. 2 sentence 1 and sentence 2(a) as well as according to the Product Liability Act shall become time-barred exclusively according to the statutory limitation periods.

(4) Fillers may be solely used for the production of Capri-Sun trademark beverages within the territories agreed from time to time.

#### **§ 11 Intellectual Property Rights**

(1) "Intellectual Property" means all rights in and to patents, inventions, utility models, industrial designs, trade dress, trademarks, service marks or other distinctive signs, business and trade secrets and know-how as well as copyrights, works of authorship, mask works, database rights and similar rights of any type (register or unregistered) and any rights or forms of protection of a similar nature and having equivalent or similar effect to any of them under laws of any governmental authority, including rights in and to all applications and registrations related to the foregoing (the "Intellectual Property Rights") in and related to the goods or parts thereof and the related documents, drafts, offers, order confirmations, drawings, instructions for use, calculations, price quotations or other materials provided by PP GmbH to the Customer (in paper or electronic form).

(2) All such Intellectual Property Rights, particularly business or trade secrets, as well as the confidential or copyright-protected information contained therein, including any further improvements of such Intellectual Property Rights are all owned by and proprietary to PP GmbH.

(3) If Customer learns of any actual or potential violation of third party Intellectual Property rights by the goods (or parts of it) or its use in the country concerned, it will promptly notify PP GmbH in writing. PP GmbH will have the sole right to direct, enforce and defend any actions regarding any potential violation of such rights. PP GmbH shall have the right - to an extent reasonable for the customer - either to modify the goods in such a way that an infringement of such rights no longer exists or to obtain the authorization that the goods (or parts of it) may be used by the Customer in accordance with these GTC, without restriction and without additional costs for the Customer. PP GmbH is optionally also entitled to take back the goods (or parts of it) against reimbursement of the paid remuneration, less the costs of use incurred by the customer during the relevant period.

#### **§ 12 Delivery of software**

(1) If the delivered goods are sold together with an electronic device, PP GmbH grants the Customer a non-transferable and non-exclusive right to use the associated software. This entitles the Customer to use the electronic equipment of the delivered goods only as intended. In particular, the Customer has no right to distribute, copy or edit the software in any way. A transfer is permissible by way of exception if the Customer proves a justified interest in the transfer to third parties while giving up his own use, e.g. if the delivered goods are resold. In such a case, the Customer shall be obliged to contractually oblige the purchaser to observe the rights to which PP GmbH is entitled. The written documents and programs required for the operation of the delivered goods are subject to copyrights and other

industrial property rights and shall remain the property of PP GmbH or the affiliated companies of PP GmbH.

(2) If the delivered goods are sold to the Customer together with electronic equipment of a third party, the license conditions of the third party shall apply.

### **§ 13 Confidentiality**

(1) Subject to the following provisions, Customer and PP GmbH agree to keep strictly confidential and not disclose (directly or indirectly) any and all non-public financial, technical (including such information relating to the installation, running and servicing of the goods or parts thereof, technical, development and process information or programming techniques), commercial (including marketing and sales information), operational, business or other information, know-how, trade secrets and technology or other confidential expertise, information, documents or materials furnished by one party (the "Information Provider") to the other party ("the Information Recipient"), whether in tangible or intangible form, - unless contractually agreed between Information Provider and Information Recipient - with respect to the creation, use, operation and/or functionality of the goods or parts thereof (the "Confidential Information"). Information Recipient will only use Confidential Information in line with the intended use under these GTC and will take all lawful and appropriate security measures to prevent unauthorized persons or entities from accessing, obtaining or using Confidential Information. In particular, the Customer shall refrain from making the goods (including Fillers, or parts thereof) covered by these GTC, which contain Confidential Information, accessible to third parties, unless access is required by applicable law or governmental regulations.

(2) Information Recipient will refrain from taking any action, directly or indirectly, that would enable or facilitate the unauthorized use or disclosure of such Confidential Information.

(3) The Information Recipient may disclose the Confidential Information to its officers and employees only under the application of a strict "need-to-know" basis, only to the extent necessary to enable them to perform their duties as employees of the Information Recipient, provided that such officers and employees have been advised of the confidentiality of such Confidential Information and have agreed in writing to comply with these GTC ensuring the strict confidentiality with respect to the goods or parts thereof. The Information Recipient shall be liable for the unauthorized use or disclosure of such Confidential Information by its officers and employees.

(4) The provisions of this Section 13 shall not apply to knowledge, information, documents or materials,

(a) which was known to or in the possession of the Information Recipient, its officers and employees at the time of disclosure, without being a consequence of a breach of this Confidentiality Agreement or other confidentiality obligations entered into prior to the date of disclosure; or

(b) they were in the public domain or in the public domain at the time of disclosure, without this being a consequence of any unauthorized disclosure by the recipient of the information, its officers and employees; or

(c) they were given to the Information Recipient, its officers and employees on a non-confidential basis by a third party who was not subject to any obligation of confidentiality with respect to such information or was subject to conditions that permitted its disclosure to other persons.

(5) The provisions of this Section 13 shall not apply if the Information Recipient, its officers and employees are compelled by applicable law, a final and enforceable order of a court of competent jurisdiction, or a request by a regulatory, supervisory or governmental agency, institution or department to disclose such Confidential Information, and the Information Recipient, its officers and employees have made good faith reasonable efforts to prevent such disclosure and have first notified Information Providers of the request for disclosure.

(6) Customer shall not at any time (even after the business relationship between the parties under these GTC comes to an end) alter, enhance or otherwise modify the technical information or technical data related to the goods (including installation, running and servicing) or parts thereof (including spare parts), except as agreed by the parties in writing. Customer shall not disassemble, decompile, determine the composition or otherwise seek to reverse engineer any technical data or information related to the goods or parts thereof (including spare parts), prepare derivative works of any of the technical data or information and/or design or build any machinery or parts thereof based upon or incorporating any Confidential Information (in particular any such technical data or technical information). Any such information shall be treated as PP GmbH's Confidential Information as defined herein. Customer shall not sell, distribute, cause or allow to pass from control of Customer to a third party, or offer any Confidential Information, particularly any such technical information or technical data of the goods or parts thereof (including installation, running and servicing), without written prior approval from PP GmbH.

(7) The obligations set forth in Section 10 and this Section 13 shall – unless differently specified in Section 13.6 - apply during the term of the business relationship of the parties under these GTC regarding the goods and thereafter at least for a period of five (5) years after the ending of the business relationship or, if the Information Provider continues to have a legitimate need to protect the confidentiality of its corresponding trade/business secrets thereafter, for as long as such an interest exists..

### **§ 14 Force Majeure**

(1) In case of circumstances for which PP GmbH is not responsible and which have a substantial influence on the production or delivery of the Products, including without limitation events of force majeure, interruption of operations at PP GmbH's or its affiliates' premises or in the factories of PP GmbH's suppliers, supply chain constraints, shortage of commodities, orders of authorities, riots, war or warlike activities, terrorist attacks, blockades, uprisings, confiscation, embargo, natural disasters, pandemic, epidemic, quarantine, strikes, labour disputes, lock-outs,

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cyberattacks, data leaks as a result of cyberattacks and/or internet or power disruptions, devaluation of the currency, standstill in supply or significant price increase in raw materials and similar (hereinafter "Force Majeure"), PP GmbH shall be entitled to extend the delivery deadline, or reduce or cancel the confirmed order.

(2) If the delivery period is extended due to the above-mentioned circumstances or if PP GmbH reduces or cancels the order, the Customer will have no liability claims of any kind against PP GmbH. PP GmbH shall also not be liable for an event of Force Majeure arising during a period when it is in default of delivery. PP GmbH shall notify the Customer of the occurrence of any of the above-mentioned circumstances.

(3) The Parties agree that it is not their intention that the effect or consequences of entering into an Agreement should be to cause hardship but, despite the Parties' best intent and as a result of changes in economic or market conditions, such hardship may be caused to either party in complying with the terms of the Agreement at the negotiated prices. Hence, if at any time during this Agreement either party is of the view that there has been a substantial change in business, monetary, technical or commercial conditions as a result of which that party suffers material hardship in complying with the Agreement, that party may notify the other in writing that it is unable to fulfil its contractual obligations and wishes to meet and review the conditions of the Agreement in the light of the changed business conditions. A substantial change arises e.g. if input costs for certain materials or production costs increase by more than twenty percent (20%). The Parties shall meet to discuss in good faith appropriate means, if any, to alleviate or mitigate the effects of such hardship in a manner equitable to both Parties. If, within thirty (30) days after giving of such notice, the parties are unable to agree upon modification to the Agreement, either party may immediately suspend any orders and deliveries and terminate the order and/or the Agreement with one-month written notice.

### **§ 15 Business Code of Conduct and Data Protection**

(1) The customer acknowledges that PP GmbH is committed to the highest standards of integrity, sustainability and ethics. The Capri-Sun Business Code of Conduct also applies to PP GmbH and is available on the Capri-Sun homepage (<https://www.capri-sun.com>). The customer has taken note of the Capri-Sun Business Code of Conduct and will comply with it.

(2) Each party shall comply with the applicable data protection laws and regulations and shall implement any appropriate technical and organisational measures to ensure a level of security appropriate to the risk to protect the personal data received from the other party from accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access, unlawful processing and/or processing inconsistent with the original purpose of the collection.

(3) Each party shall process the personal data received from the other party exclusively in connection with the execution and the performance of these GTC, the contracts and/or the purchase orders and/or the fulfilment of any applicable statutory provisions.

(4) For further information in relation to the handling of user data, PP GmbH refers to its Privacy Policy.

### **§ 16 No re-export to Russia and Belarus**

(1) The Customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation and/or Belarus or for use in the Russian Federation and/or Belarus any goods supplied under or in connection with this business relationship that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014 and/or under the scope of Article 8g of Council Regulation (EU) No 765/2006.

(2) The Customer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.

(3) The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).

(4) Any violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of these Terms and Conditions of Sale, and the PP GmbH shall be entitled to seek appropriate remedies, including, but not limited to terminate the business relationship;

(5) The Customer shall immediately inform PP GmbH about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The Customer shall make available to PP GmbH information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information.

### **§ 17 Subcontractors, Assignment and Change of Control**

(1) Customer shall not assign this agreement or any orders hereunder without the prior written consent of PP GmbH.

(2) In the event of a change of control (i.e. a significant shift in ownership or control such as a merger or acquisition) of either party, the party undergoing such change shall promptly notify the other party in writing. Upon receipt of this notice, the other party shall have the right to terminate this agreement by providing written notice of termination within sixty (60) days. Termination shall take effect upon the expiration of the sixty (60) day period unless otherwise mutually agreed upon in writing.

(3) Any breaches of this provision shall allow the other party to terminate the contract with immediate effect.

**§ 18 Choice of Law and Place of Jurisdiction**

(1) These GCS and the contractual relationship between PP GmbH and the customer shall be governed by the laws of Germany, excluding international uniform law, in particular the Private International Law Statute (PILS) and the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) If the Customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of PP GmbH in Eppenheim. The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, PP GmbH shall also be entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a prior individual agreement or at the general place of jurisdiction of the Customer. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

**Pouch Partners GmbH**