



**Capri Sun AG • Neugasse 22 • 6300 Zug • Switzerland  
General Terms of Sale**

**1. Scope of the General Terms and Conditions**

1.1 These general terms for delivery and payment ("General Terms and Conditions of Sale") of Capri Sun AG (hereinafter "CSAG") shall apply exclusively, unless otherwise agreed in writing, to all offers, purchase contracts, orders and deliveries of finished products, pouches, straws, flavor packs, compounds, caps, foil, cardboard packaging or any other products (hereinafter the "Product(s)") which CSAG provides to its customers and partners.

1.2 In these General Terms and Conditions of Sale, the respective business partner of CSAG shall be referred to as "Customer", notwithstanding the nature of the respective contract and the respective status of the business relationship. CSAG and the Customer shall be hereinafter also referred to as, individually, the "Party" and, collectively, the "Parties".

1.3 These General Terms of Sale are valid and effective as of 1. December 2019. They shall apply in equal measure to future business relationships between the Parties, even if they are not expressly agreed upon in each case.

1.4 Deviating, conflicting or supplementary general terms and conditions of business of the Customer shall not replace, amend or supplement these General Terms and Conditions of Sale, even if they are not expressly rejected or contradicted.

1.5 Notwithstanding the foregoing, the Parties agree that the valid conclusion of a contract shall not fail due to general terms and conditions which contradict each other. Insofar as conflicting general terms and conditions correspond to each other, the conforming provisions shall apply. Moreover, those terms of CSAG which correspond to non-contradicting terms of the general terms and conditions of the Customer shall be deemed to have been agreed upon. However, those provisions of the general terms and conditions of the Customer which do not correspond to the content of the General Terms of Sale of CSAG, are and will be rejected and shall not form part of the agreement. In this and any other cases, the provisions of the Swiss Civil Code shall apply.

1.6 These General Terms and Conditions of Sale shall be an integral part of the respective contract and order, it being understood that for the purpose hereof reference to the General Terms and Conditions of Sale shall include any contracts and/or orders between CSAG and the Customer.

**2. Contract Conclusion**

2.1 CSAG's offers shall always be deemed non-binding, unless otherwise agreed in writing between the Parties. The contract shall be concluded by issuance of an order confirmation by CSAG to the Customer following a binding purchase order provided by the Customer.

2.2 CSAG provides a guarantee on the Products only where this has been expressly agreed in the order confirmation.

**3. Delivery and Transfer of Risk**

3.1 The Products shall be delivered EXW (Ex Works – Incoterms 2020) Eppelheim, Germany, unless otherwise agreed in writing between the Parties. The risk shall pass to the Customer accordingly. If the delivery is delayed due to the conduct of the Customer or if the Customer is in default of acceptance or does not request the ordered Products, in spite of CSAG's notice that the Products are ready for dispatch, or in any other case where the delivery is delayed due to circumstances for which CSAG may not be held responsible, all risks shall pass to the Customer at the time of notification of the readiness of the Products for delivery.

3.2 The Customer shall collect the Products under the agreed terms. Should the Customer not collect the same within the terms agreed upon, CSAG shall have the faculty to bill the Customer for the Products. CSAG shall also be entitled to place the Products in CSAG's own or in an external storage, charging the storage costs to the Customer according to Article 4.5 below, and for any additional costs, including without limitation transportation costs and all customs duties.

3.3 The Products shall be in any case considered delivered and accepted at the end of the agreed upon deadline for delivery, if they have not been collected by the Customer.

3.4 The scope of delivery shall be specified in the order confirmation.

3.5 The Customer shall be obliged to instruct only drivers / freight carriers who hold and carry the required papers and documents to pick-up the Products. Foreign drivers / freight carriers from third-party states shall be obliged to hold and carry a valid work permit. The vehicles of the drivers / freight carriers will only be loaded if the drivers / freight carriers provide an official certificate with an official sworn translation into German. CSAG shall not be liable for any costs resulting of

the Customer's non-compliance with the abovementioned requirements and consequently caused by not loading the Products. The same applies to any costs resulting from the Customer's failure to provide a suitable vehicle or load-securing equipment.

3.6 In relation to the production and supply of the Products, CSAG may request Customer to provide general consultancy regarding regulatory matters and to issue related product documentation required by the authorities or third parties (e.g. vendors).

**4. Delivery Period**

4.1 Delivery periods not expressly designated as binding by the Parties shall be deemed non-binding. Delivery periods shall commence at the earliest upon receipt of all required written materials relating to the content and conditions of the order, insofar as the Customer is required to supply said written materials in accordance with the terms of the agreement, and upon receipt of the agreed payment or of a confirmed letter of credit. A delivery period shall be deemed to have been observed if the Products are made available for shipment within the specified period and the Customer has been notified thereof.

4.2 The delivery terms may be subordinated to some circumstances that may preclude, obstruct or at any rate delay the normal process of production and delivery of the Products. The above-mentioned circumstances shall be speedily communicated in writing by CSAG to the Customer, motivating the cause of delay in delivery.

4.3 In case an agreed delivery period is exceeded by more than one (1) week, the Customer shall be entitled to set CSAG an appropriate grace period of at least one (1) week. If CSAG fails to comply with this grace period for reasons attributable to CSAG, the Customer shall be entitled to withdraw from the contract. The withdrawal is to be declared in writing promptly after expiry of the grace period.

4.4 CSAG shall be entitled to make partial deliveries and, in such case, to issue partial invoices to a reasonable extent prior to the expiration of the delivery period.

4.5 Without prejudice to Article 3.2 above, if shipment or delivery of the Products is delayed at the request of the Customer or due to circumstances which lie in the Customer's sphere of risk or responsibility, the Customer shall pay CSAG the costs of the storage of the Products. In the case of storage at CSAG's premises, such amount shall be equal to no less than 0.5% of the invoice amount for each week or part of a week of storage, commencing one (1) month following notification of the availability for shipment of the Products; the Customer shall have the right to prove that the amount of damages is lower. CSAG shall be in any event entitled, after having set a reasonable period which has lapsed without result, to dispose over the Products.

**5. Force Majeure and Hardship**

5.1 In case of circumstances for which CSAG 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 CSAG's or its affiliates' premises or in the factories of CSAG's suppliers, supply chain constraints, shortage of commodities, orders of authorities, riots, war or warlike activities, terrorist attacks, blockades, uprisings, confiscation, embargo, natural disasters, strikes, labour disputes, lock-outs, devaluation of the currency, standstill in supply or significant price increase in raw materials and similar (hereinafter "Force Majeure"), CSAG shall be entitled to extend the delivery deadline, or reduce or cancel the confirmed order.

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

5.3 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.

## **6. Prices and Taxes**

6.1 CSAG shall have the right to amend at its sole discretion the sale prices, with one (1) month prior notice, whenever such changes are justified, e.g. increasing commodity prices and/or input costs.

6.2 All prices shall be deemed EXW (Incoterms 2020), unless otherwise agreed upon in writing by the Parties. All prices, unless otherwise specified, are quoted in Euro net, not including any applicable taxes, duties, or fees.

6.3 If the Products subject to a deposit are sold, then the prices are understood as not including any deposit and excluding any applicable VAT. Neither discounts nor any sort of conditions (rebate, bonuses) shall be granted on deposit amounts.

6.4 The information relevant for the taxation such as, e.g. the information on the delivery recipient, place of delivery or other service in accordance with the applicable VAT regulation, are to be disclosed completely, accurately and transparently by the Customer. The Customer shall be obligated to notify CSAG promptly in writing of all modifications of the tax-relevant data (letter, fax, e-mail) at the latest with the delivery of the order. In case taxes or interests arise or must be borne by CSAG due to the Customer's failure to provide tax relevant data in full and in time, the Customer shall indemnify and hold harmless CSAG from and against any claim from the competent authorities and/or third parties.

## **7. Payment and Default**

7.1 Unless otherwise agreed in writing, invoices shall be paid by the Customer immediately or within thirty (30) days of the date of invoice at the latest. Payments shall be made by the Customer to CSAG in cash without any deduction as specified on the invoice. The place of payment shall be at all times the domicile of CSAG, whatever means of payment has been agreed upon. Cheques, bills and other securities may be accepted subject to applicable Swiss laws.

7.2 In the event of delay in payment, the Customer shall pay to CSAG an interest rate of two (2) percentage points above the interest rate set by the European Central Bank.

7.3 In case of instalment payments, CSAG shall be entitled to call due the entire remaining purchase price if the Customer is in default of two or more instalment payments in sequence and the outstanding amount is more than ten percent (10%) of the purchase price.

7.4 An offsetting or the exercise of a retention right shall only be permitted, if the Customer's counterclaim has been recognised by CSAG in writing or has been declared to be final and conclusive by the competent court.

7.5 Should more than one contract have been concluded between CSAG and the Customer and a controversy arise regarding the Products of one or more particular sales, the Customer shall not be entitled to suspend the payment of the other non-contested deliveries.

7.6 If the Customer does not fulfil the obligation to pay the price in respect of one or more deliveries, CSAG shall be entitled to suspend the delivery underway and refuse to fulfil any other deliveries, without prejudice to CSAG's right to compensation for damages.

7.7 In case of deterioration of the credit-worthiness of the Customer, CSAG shall be entitled to shorten the payment terms, to demand prepayments or to withdraw from the contract. In the event of delay in payment, all other payment obligations immediately become due, even if the authorized period for the other payment obligation has not yet expired. In such case CSAG shall also be entitled to demand immediate payment for issued bills of exchange by returning them.

7.8 In case the Parties are unable to agree on the annual sales targets in the yearly Joint Business Plan, an automatic raise of five (5) % of the sales volume (measured in litres) per calendar year shall become effective for any subsequent year.

## **8. Packaging and Transport**

8.1 The conditions and the type of packaging of the Products shall be agreed upon between CSAG and the Customer at the act of definition of the order.

8.2 If the Products are delivered on pallets, the Customer respectively the carrier, who, in a contract of carriage, undertakes to perform or to procure the performance of transport on behalf of the Customer, shall be obliged to provide that each truck is secured for transport pursuant to VDI 2700, DIN EN 12642 (Code XL). In the event trucks do not fulfill the aforementioned safety requirements for transport, CSAG shall be entitled to refuse loading or to provide additional pallets for an adequate load securing.

8.3 Concerning any pallet delivered by CSAG the following pallet handling mechanisms are available:

- Upon arrival of the Products at the place of destination the Customer will exchange the delivered pallets and return a corresponding quantity of A-quality pallets (in line with GS1 Germany standards). If the pallets exchanged and returned by the Customer are not of A-quality, CSAG shall be entitled to refuse acceptance of such pallets and to set the Customer an appropriate grace period for returning A-quality pallets or to charge the Customer the actual price per pallet; and/or

- the Customer pays for the delivered pallets the actual price; and/or

- the Customer as a member of the CHEP pool system will return the delivered CHEP pallets to CHEP. If the Customer returns CHEP pallets of lower quantity (than initially delivered by CSAG) or of worse quality (than of A-quality), CSAG shall be entitled to invoice the Customer any claims, demands, costs, damages and expenses charged by CHEP; and/or

- CSAG will include the costs for the delivered pallets in the price for the Products.

The respective applicable mechanism(s) of pallet handling shall be separately agreed between the Parties. In the event no mechanism of pallet handling is agreed separately between the Parties, CSAG shall be entitled to choose at its sole discretion which mechanism(s) of pallet handling will apply to the business transactions with the Customer.

8.4 The transport packaging shall not be returnable.

## **9. Claims for Defects**

9.1 The delivered Products shall be carefully inspected and examined by the Customer immediately upon delivery from CSAG to the Customer's driver / freight carrier in terms of completeness (quantity) and accuracy (types) of the order. The Products are deemed to have been accepted if the Customer does not give notice of any incompleteness and/or inaccuracy of the Products (the "Incompleteness/Inaccuracy") immediately upon delivery from CSAG to the Customer's driver / freight carrier. The Customer is obliged to instruct its driver / freight carrier accordingly. CSAG shall use its best efforts to immediately correct the incompleteness and or Inaccuracy. As the transport takes place at the Customer's risk and expense, the Customer shall be solely responsible for any transport related damages and defects.

9.2 Upon receipt of the Products at the Customer's, premises, warehouse or any other place of destination, the Customer immediately examines them. In the event of any visible external defects in the delivered Products and/or any failure of the Products to meet the specifications agreed by the Parties, if any, ("Obvious Defects"), the Customer shall inform CSAG in writing specifying the deficiency claims within five (5) business days following the receipt of the contractual Products at the Customer's premises, warehouse or any other place of destination upon penalty of forfeiture. The Customer shall verify that CSAG has received and acknowledged the content of the complaint. Defects that are not discovered after an intensive investigation performed within the above-mentioned period of time ("Latent Defects") shall be notified and specified in writing to CSAG immediately, but no later than two (2) business days following the discovery of such Latent Defects. Samples supporting the complaint and traceability reference have to be transmitted to CSAG along with a detailed report on mode of transport, storage and deposit of the Products. In case of failure to observe the applicable notice period, any claims shall be forfeited. Both, Obvious Defects, inconsistency to the regulation and Latent Defects, are hereinafter collectively referred to as "Defects".

9.3 Subject to the condition that the Customer meets the applicable notice period for Defects pursuant to Article 9.2, the Customer shall have the following rights only:

- a) to require CSAG to replace the defective Products with Products without Defects (replacement delivery); or

- b) to require CSAG to reduce the price by way of compensation for the decrease in the Products' value (reduction of price).

9.4 The period of limitation for claims for Defects or claims for compensation shall expire twelve (12) months following the delivery of the Products in accordance with Article 3.1.

9.5 From the date of any complaint up to the closure of the dispute, the Products contested by the Customer shall be kept in standard storage conditions, in their original wrapping, and be available to CSAG for due inspection by the same. The contested Products shall not be returned to CSAG without the authorisation of the same.

9.6 If the replacement delivery has not been performed or if the period set by the Customer for the replacement delivery has expired without success or is waived according to the applicable statutory provisions, the Customer shall be entitled to terminate the contract or to reduce the price. However, without prejudice to Article 9.10, the Customer shall not be entitled to terminate the contract in case of any insignificant Defects. No compensation or reimbursement of the expenses incurred by the Customer shall be due or payable to the Customer other than pursuant to Article 10 below.

9.7 CSAG reserves the right to make a replacement delivery and/or grant



a price reduction subject to the Customer paying the invoice in due time.

9.8 In consideration of the price agreed upon, the Customer waives any further right to reimbursement or claims, in case of ascertained responsibility of CSAG.

9.9 Should CSAG authorise the Customer to destroy the contested Products, the Customer shall transmit to CSAG the required documentary evidence of the destruction and/or disposal of the same Products.

9.10 No claims may be asserted by the Customer in the event of customary and/or minor deviations of the Products from the agreed upon specifications or minor impairment of the usability of the Products (e.g. colour, size, quality). CSAG does not give any warranty of quality for any characteristics of samples, unless an express written assurance to this effect has been provided by CSAG.

9.11 Customer's claims for damages shall be excluded in any of the following circumstances: (i) Defects, including chemical or physical alterations, of the Products which occur after the passing of risk due to incorrect handling, storage, shipping or non-compliance with instructions, precarious conditions of preservation and maintenance of the Products or in any case of lack of a normal professional diligence; (ii) if the storage life of the relevant Product has expired at the time when a complaint is lodged, it being understood that the foregoing shall apply even if the date of expiry of the Product falls within the period of limitation for claims with respect to Defects; (iii) if the Products have been processed, modified and/or treated; (iv) Defects which occur due to force majeure, or due to the use of the Products outside their intended normal purpose.

9.12 In the event of defective storage and/or transportation of the Products ordered attributable to the Customer, that cause alterations that make the Products even partially unsuited to its destined use, CSAG shall be exonerated from any responsibility.

9.13 In the case of Defects of Products or parts thereof that have not been manufactured by CSAG or any of its affiliates, CSAG and any of its affiliates may be released from their liability by assigning CSAG's and/or its affiliate's own warranty claims against the supplier to the Customer.

#### **10. Limitation of Liability**

10.1 CSAG shall not be liable for any direct damages caused to the Customer or to any third party under these General Terms of Sale and/or under a contract signed by the Parties (if any), unless such damages have been caused by gross negligence or wilful misconduct by CSAG.

10.2 To the extent permitted by Swiss law, CSAG shall not be liable for any indirect or consequential damages, such as but not limited to lost revenues, lost profits, lost savings, indirect recall costs or other indirect, incidental, or consequential damages.

10.3 The liability restrictions stipulated in this Article 10 shall not apply to the extent that CSAG has remained silent, in bad faith, about the Defects of the Products.

10.4 Notwithstanding anything to the contrary provided herein, in the respective contracts and/or orders, should CSAG be held liable for payment of any amount for any reason to the Customer in relation to or in connection with these General Terms of Sale, CSAG's liability shall not exceed a sum equal to half of the amount paid by the Customer to CSAG for any reason over the last twelve (12) months in connection with these General Terms of Sale.

#### **11. Product Recall**

11.1 If one party regards a recall of a Product delivered by CSAG to the Customer as necessary due to a quality issue, public health risk or damage to CSAG's trademarks or reputation, the Parties will confer in good faith how to proceed. Customer shall not initiate a product recall without CSAG's written approval, which shall not be unreasonable withheld if there is evidence that the Products could cause a public health risk.

11.2 Without prejudices to Article 10 above, if, following a product recall, the Customer proves that the quality issue or public health risk was due to CSAG's gross negligence or wilful misconduct, CSAG shall bear all direct costs related to the Product recall, provided that CSAG agreed to the product recall, Customer is obliged to bear such costs under applicable law, and the costs will be covered and reimbursed by the applicable insurances of CSAG. In all other cases, the Customer bears all costs related to the Product recall and shall indemnify and hold harmless CSAG in connection with the same.

#### **12. Audits**

Audits on the part of the Customer or its representatives may only be conducted at the usual operating times (MON-FRI: 9 AM to 5 PM) and upon CSAG's prior written approval; such approval to be given at least ten (10) business days prior to such audit. The security conditions at CSAG premises require the registration of the visitors at the gate

before entry, which may lead to a waiting period. The Customer shall sign a confidentiality agreement in order to be granted access to the necessary facilities and inspection of the relevant/necessary documents. Taking photographs shall not be permitted.

#### **13. Retention of Title**

13.1 Title to the Products delivered to the Customer shall remain with CSAG and not pass to the Customer until full payment of the purchase price, including all secondary claims or payment of existing balances has been received by CSAG. Until such time, the provisions of this Article 13 shall apply.

13.2 The Customer shall not dispose of the Products outside the ordinary course of business, including pledging or use of the Products as collateral. The Customer shall inform CSAG immediately of any imminent seizures or of the execution of a seizure or of any other impairment of CSAG's rights by third parties.

13.3 If the delivered Products, whether processed or unprocessed, mixed or unmixed, combined or not combined, are sold to third parties by the Customer, then the Customer herewith assigns to CSAG, as a security, the resulting claims to the maximum amount of CSAG's claims. The Customer reserves the right to collect the above-mentioned claims on CSAG's account. However, CSAG shall have the right to demand disclosure of the debtor and to demand direct payment to CSAG.

13.4 In the event of a default by the Customer in respect of any payment obligation to CSAG or any breach of his duties deriving from the agreed retention of title, the entire amount of the Customer's remaining debt shall become immediately due and payable to CSAG. In this case, CSAG reserves the right to request the return of the Products and to collect them at the Customer's premises. The Customer hereby declares his consent that the persons instructed by CSAG enter the Customer's premises in order to collect the Products. Return of the Products to CSAG shall not be considered a termination of the contract, whereas seizure of the Products by CSAG shall be considered a termination of the contract.

13.5 The Customer shall at all times provide all the necessary information and documents in order for CSAG to preserve and enforce its rights on the Products including in case of resale of the Products to third parties.

#### **14. Assignment**

The Customer shall not assign, sub-contract or transfer all or any part of its rights, obligations, claims and/or receivables under these General Terms of Sale or sub-contract or delegate all or part of its performance under these General Terms of Sale to third parties, without CSAG's prior express written consent. Any such assignment, sub-contracting, transfer or delegation which is made without such prior express written consent shall be deemed to be invalid and shall constitute a breach of these General Terms of Sale.

#### **15. Industrial and Intellectual Property Rights**

15.1 All industrial and intellectual property rights such as patents, utility models, industrial designs, trademarks or other distinctive signs, trade secrets as well as copyrights covering the Products or any part thereof, as well as any related documents, drafts, offers, order confirmations, drawings, manuals, calculations, quotations or any other material provided by CSAG to the Customer (whether in hard copy or electronic form) shall remain the exclusive property of CSAG or its affiliates. Any trade secrets, confidential or proprietary information contained therein (including information not generally known to the public, such as, without limitation, technical, development, marketing, sales, operating, performance cost, know-how, business and process information or computer programming techniques) shall be kept secret and confidential and the Customer shall not be allowed to disclose such trade secrets, confidential or proprietary information to any third party without the prior written consent of CSAG.

15.2 Insofar as software is included in the scope of supply, the Customer shall be granted a non-exclusive right to use the software as well as its related documentation but limited to one system and to the defined scope of the contractual use. Copyright notices may not be removed or modified and sub-licences may not be granted.

15.3 In case of third parties' industrial or intellectual property rights or copyrights relating to the Products in the relevant country, CSAG shall have the right – to the extent reasonably acceptable for the Customer - to either modify the Products in such a way that an infringement of the industrial or intellectual property rights or copyrights of such third parties is no longer existing or to obtain the necessary authorisation to the use of the Products by the Customer in compliance with the terms of these General Terms of Sale without any restrictions and without any additional costs for the Customer. CSAG shall be also entitled to take the Products back against refund of the purchase price paid by the Customer less compensation of costs attributable to the use of the Products by the Customer during the relevant time period.

15.4 Notwithstanding the above, the Customer shall be at all times the sole responsible, and shall indemnify and hold harmless CSAG, in the event of



claims by third parties as to the violation of rights of industrial and/or intellectual property of the Product manufactured by CSAG on the basis of the order and the instructions of the Customer and/or material and/or tests made available to CSAG by the Customer and/or by third parties acting on behalf of the same.

#### **16. Data Protection**

16.1 Personal data of CSAG's customers and suppliers will only be captured, stored and processed electronically for contractual purposes, information about CSAG's products, to answer customer enquiries, sending of newsletters and participation in prize draws, under due consideration of the provisions of the EU General Data Protection Regulation (GDPR).

16.2 For further information in relation to the handling of user data, CSAG refers to its Privacy Policy, available on its homepage (<https://www.capri-sun.com/de/en/>).

#### **17. Confidentiality**

17.1 Each Party will during the term of this Agreement and thereafter keep secret and confidential all information and know-how (including the Know-How; together, the "Confidential Information") disclosed to it by the other party or otherwise belonging to the other party (and will procure that its agents and/or employees are similarly bound) and will not disclose the same to any person, or use it, save to the extent necessary to manufacture, use and sell the Trademark Beverages in accordance with the terms of this Agreement and save as expressly authorised in writing to be disclosed by the other Party. Confidential Information is, and shall remain, the exclusive property of the disclosing party.

17.2 The Parties shall, at all times during the term of these General Terms of Sale and for a period of five (5) years after termination, (except Confidential Information that constitutes trade secrets, which shall remain confidential for as long as such information remains a trade secret), for whatever reason, keep all Confidential Information secret and not disclose any said confidential information to any other person, nor use any said Confidential Information for any purpose other than the performance of their obligations under these General Terms of Sale. In any case, the Customer shall, upon CSAG's demand, promptly return to CSAG any confidential information and shall not retain any copy thereof.

17.3 Customer shall not, except as necessary for the distribution of the Products, analyse, disassemble, image, determine the composition, or otherwise seek to imitate the Products and/or the characteristic drinking pouches, including the underlying compound, ingredients and manufacturing techniques. Any such information shall be treated as Confidential Information of CSAG.

#### **18. Corporate Responsibility / Code of Conduct**

Customer acknowledges that CSAG is committed to the highest standards of integrity, sustainability and ethics, as described in the Capri-Sun Business Code of Conduct available on CSAG's homepage (<https://www.capri-sun.com>). The Customer acknowledges the Capri-Sun Business Code of Conduct and agrees to adhere to it.

#### **19. Place of Performance, Legal Jurisdiction and Applicable Law**

19.1 The place of fulfilment of all duties under these General Terms of Sale - also for the purposes of deliveries and payments - shall be Zug, Switzerland. All disputes arising out of, relating to or in connection with these General Terms of Sale, including any contracts with and orders made to CSAG, shall be subject to the exclusive jurisdiction of the Canton of Zug, Switzerland. Notwithstanding the foregoing, CSAG shall have the right to bring proceedings before the court where the Customer has its domicile.

19.2 These General Terms of Sale shall be governed by and construed in accordance with substantive Swiss law, without regard to its conflict of laws principles. The Private International Law Statute (PILS) and the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

#### **20. Termination**

20.1 CSAG may terminate the contract, or terminate the provisions of any part of the contract, by written notice to the Customer with immediate effect if the Customer is in default of any obligation under these General Terms of Sale and

- a) the Customer has not remedied the default to the satisfaction of CSAG within fifteen (15) days, or such other period as may be specified by CSAG, after issuance of a written notice specifying the default and requesting it to be remedied; or
- b) the default is not capable of remedy.

20.2 Without prejudice to any other remedy provided under these General Terms of Sale, CSAG shall have the right to terminate, totally or partially, the contract with immediate effect, in the cases specifically provided under these General Terms of Sale and in the following

cases:

- a) breach of any of the Customer's obligations set forth in Article 7 (Payment and Default);
- b) breach of any of the Customer's obligations set forth in Articles 13.2 and 13.4 (Retention of Title);
- c) total or partial assignment, sub-contracting or transfer to third parties of the rights, obligations, claims and/or receivables of the Customer or sub-contracting or delegation of all or part of its performance under these General Terms of Sale, without CSAG's prior express written consent;
- d) breach of any of the Customer's obligations set forth in Articles 15.1 and 15.3 (Industrial and Intellectual Property Rights).

#### **21. Severability**

21.1 If any term, condition, stipulation, provision, covenant or undertaking in these General Terms of Sale or of any legal transaction between CSAG and the Customer is or becomes, or is found by any court or administrative body of competent jurisdiction to be, illegal, void, invalid, prohibited or unenforceable, then the remaining terms, conditions, stipulations, provisions, covenants or undertakings of these General Terms of Sale or of any legal transaction between CSAG and the Customer shall remain in full force and effect. In such a case, the contracting Parties shall negotiate in good faith in order to make a new, valid agreement without delay, achieving as closely as possible the commercial effect of the provisions so found to be illegal, void, invalid, prohibited or unenforceable. The same procedure shall apply in case of any loopholes in these General Terms of Sale.

21.2 Customer is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Customer is engaged. Customer will ensure such insurance coverage throughout the Agreement.

**Capri Sun AG**