



Terms of Use for Managing Entities (ToU ME)

As of 01 July 2020

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1. Scope of Application

- 1.1 These 4C Terms of Use for Managing Entities (ToU ME) regulate the use of the 4C certification system by the ME and its 4C Unit and the resulting rights and duties of the parties.
- 1.2 The use of the services and of the 4C website shall exclusively be governed by the following ToU ME and the currently applicable versions of the 4C Code of Conduct and 4C System Regulations. In case of contradiction, the following order shall apply:
 - ToU ME
 - 4C System Regulations
 - 4C Code of Conduct(in their respective current versions).
- 1.3 Any deviating general terms and conditions of the ME and its 4C Unit are explicitly rejected.

2. Acceptance of the 4C Terms of Use for MEs

- 2.1 The prerequisite for the ME and its 4C Unit to use the 4C certification system is the acceptance of the 4C ToU ME and the validation of the application by 4C.
- 2.2 By confirming the 4C application for an audit in the 4C portal the ME accepts the 4C ToU ME. The procedure for application is specified in detail in the 4C System Regulations. The ME must provide complete and accurate application information (including contact details) in the 4C portal. Insofar as it is possible to directly and/or indirectly allocate it to a natural person, the information provided in the 4C portal during the 4C application process is in part personal data which is subject to the provisions set out in Section 7.
- 2.3 The acceptance of the ToU ME in addition requires that the ME of a 4C Unit has concluded a Service contract with a Certification Body (CB) cooperating with 4C in advance.
- 2.4 Only those MEs that meet the definition of MEs as specified in the 4C Glossary which is publicly available on the 4C website are entitled to apply for an audit.
- 2.5 In the event of incomplete and incomprehensible information provided in the 4C portal during the application process or at a later stage, 4C may request that the information be corrected immediately by the ME. The request for correction does not constitute an acceptance of the ME's application by 4C.
- 2.6 Once all information provided in the 4C portal is complete and comprehensible and the CB as well as ME has confirmed the application and accepted the 4C ToU ME, 4C will validate and accept the ME's application via the 4C portal.
- 2.7 4C shall be entitled to reject the ME's application without indicating any reasons. In particular, 4C shall not be obliged to accept the application for 4C certification even though a contract between the ME and a CB exists.

2.8 The ToU ME may be downloaded via the 4C website or the 4C portal at any time.

3. Rights and Duties of the ME and its 4C Unit

- 3.1 The ME and its 4C Unit shall be entitled to use the 4C certification system to obtain a certification if the ToU ME have been accepted by the ME in accordance to Section 2, if no suspension of the certificate/ME/4C Unit as specified in the 4C System Regulations, chapter 3.8 “Non-conformities, Infringements and Sanctions”, exists and if 4C has validated and accepted the ME’s application in accordance to Section 2.
- 3.2 The ME shall be obliged to comply with the 4C Code of Conduct and the 4C System Regulations in its currently applicable version and to avoid anything that might harm its compliance. 4C may adjust the 4C Code of Conduct and/or 4C System Regulations at any time to ensure the integrity of the 4C certification system. Any changes in the 4C Code of Conduct and/or 4C System Regulations shall be announced to the ME by way of System Updates which will inform, if applicable, the period within which the changes have to be implemented. The valid versions of both documents at any point in time are always the versions which are published on the 4C website.
- 3.3 In case of any change in contact information of the ME, the ME must notify 4C by post, by email or fax without any delay. Should no notification be made, 4C assumes that the information currently available continues to be valid. The ME’s obligation to supply accurate information also applies to all certification systems used by the ME itself and by its Business Partners for the certification of sustainability. This refers to certification systems used simultaneously to the use of the 4C certification system. The supply of accurate information shall also apply to the designated 4C contact person at the ME and the respective contact information (e.g. email address). This means, the ME shall provide 4C with up to date contact details of at least one representative of the ME and is responsible to update this with 4C as many times as necessary.
- 3.4 The ME’s obligation towards the CB to provide any and all data and documents relevant to the 4C audit shall also encompass such data and documents issued as part of other standards or certification systems, e.g. certificates or bookkeeping documents.
- 3.5 The ME shall be obliged towards the CB/auditor and 4C to grant access to coffee producers, coffee plantations and facilities where coffee is handled or stored, storage rooms (inputs, machines, irrigation equipment, etc.) and to workers for interviews at any time to the extent required for the audit.
- 3.6 The ME shall be obliged to allow a representative of 4C or an independent auditor assigned by 4C to participate in audits performed by the CB (certification, recertification, addendum, integrity or surveillance audits) at any time and to grant this representative or auditor the rights laid down in Section 3.8.
- 3.7 The ME shall also be obliged to meet their duties towards 4C arising from the contract concluded between the ME and the CB, insofar as 4C may be harmed as result of a violation of these duties. In this respect, 4C shall be included in the protective effects of these duties and may assert a claim for compensation in the event of a violation of any of these duties.

- 3.8 If requested by 4C, the ME and its 4C Unit shall be obliged to allow integrity assessments to be performed by 4C or independent auditors according to the 4C Integrity Program in the currently valid version as further specified in the 4C System Regulations at any time.
- 3.9 The ME and its 4C Unit shall be obliged to comply with the applicable laws, ordinances, directives, and ratified treaties of the country in which the 4C Unit is located. This means that the ME and its 4C Unit shall be obliged to have in place all applicable and valid permits or licenses for the types of operation of the Business Partners of a 4C Unit, to avoid any illegal activities, particularly to avoid corrupt practices, bribery and fraud. If the ME or a Business Partner of a 4C Unit is legally convicted for violations of the law, this will be considered as an infringement of the ToU ME according to the principles specified under Section 8. The ME shall report to 4C in writing and without undue delay if the ME or a Business Partner of a 4C Unit is legally convicted for violations of the law.
- 3.10 The ME shall be obliged to report once a year on the coffee commercial activities of the previous calendar year (“Commercial Reporting”) as specified in the 4C System Regulations in its currently valid version. The deadline to conclude the annual reporting for any calendar year is 28th of February of the following calendar year.
- 3.11 In order to allow a proper and complete commercial reporting via the 4C portal, companies operating within the 4C supply chain are responsible to ensure that all its suppliers and customers of 4C certified coffee are registered in the 4C portal. The ME is therefore obliged to inform all its customers of 4C certified coffee to register in the 4C portal prior to trading coffee as 4C certified. Coffee traded by Intermediary Buyers that are not registered within the 4C portal cannot be considered and claimed as 4C certified coffee.
- 3.12 The ME is obliged to inform 4C and the CB who issued the certificate immediately in writing about any potential non-compliances with regard to the major check-points of the compliance level 1 identified within the 4C Unit. Those are the major check-points indicated in the 4C audit checklist that need to be complied with during the compliance level 1 audit.

4. Rights and Duties of 4C

- 4.1 4C owns and operates the 4C System.
- 4.2 4C does not perform any certification audits itself. The audits are exclusively conducted by independent CBs cooperating with 4C which are issuing the certificate. 4C therefore does not warrant for the issue of the certificate, as it depends on the certification decision made by the CB.

5. No Set-Off

The ME may only offset claims asserted by 4C against any counterclaims which are undisputed or have been recognised by declaratory judgment.

6. Property Rights and Reference Lists

- 6.1 4C shall be entitled to list the ME's company name and logo on the 4C website, 4C portal and to publish them in presentation and print media for providing factual information. 4C shall not be entitled to use the information in any other way. Section 7 shall apply.
- 6.2 The ME may only use the 4C logo after obtaining the prior, explicit, and written consent of 4C. The requirements as specified in chapter 10 "4C Logo Use and Claims" of the 4C System Regulations need to be adhered to. The ME has sole responsibility for the integrity of its advertising. 4C does not provide assessments with regard to competition laws. The ME releases 4C from all claims by third parties against 4C resulting from this. The ME must ensure in particular that the advertising statements referring to 4C or to the 4C Code of Conduct are clearly spatially separate from other statements made by the ME in the advert, that any statements made by 4C are not reworded by the claim producer in his own words, and that the advert is sufficiently legible.
- 6.3 The content made available by 4C on the 4C website, 4C portal, during trainings and webinars is subject to copyright protection. Therefore, the ME and its Business Partners are not permitted to copy, process, or distribute this content beyond the use granted by 4C on a case-by-case basis.
- 6.4 4C shall be entitled to publish press releases, articles, etc. referring to the use of the 4C certification system by the ME upon prior explicit written consent of the ME for each individual case.
- 6.5 The ME, if holding a valid certificate, shall be entitled to mention that the ME is 4C certified. However, using the 4C name or logo within the context of company activities or statements, e.g. marketing material, press releases, articles, requires prior written approval from 4C.

7. Confidentiality, Data Protection, Publications of Third-Party Data/Information, Exemption

- 7.1 4C collects, stores, and uses personal data insofar as this is permitted by legal regulations or ordered by the legislator. 4C will treat personal data as confidential and according to the provisions of the applicable data protection law.
- 4C shall exclusively store and process the ME's and its Business Partner's data for the purposes resulting from these ToU ME.
- 7.2 4C shall be entitled to make publicly available on the 4C website any certificates issued to the ME and its 4C Unit as valid, declared null and void or expired, including the content of the certificates and the number of Business Partners, the size of the certified area and the total production of coffee 4C certified. The same applies in case a ME or its 4C Unit has been suspended, also indicating the time of suspension. 4C is not obliged to hear the ME in advance if 4C intends to change the status of the certificate of the ME and make this change publicly available on the 4C website. Information provided on a certificate usually comprises the name and address of the certified ME and its 4C Unit, the name and address of the CB, the date of issue of the certificate and

the validity period of the certificate. 4C has the right to publish maps of the sourcing areas of all 4C Units, making publicly available the geo-coordinates of all certified sites via the web-based service for the visualisation of geo data, but not specific for a single 4C Unit, thus the name of the 4C Unit shall not be mentioned anywhere. Satellite imagery and map data are provided by third parties such as “Google Maps” by Google Inc., imagery by MapBox Inc. or similar services, such as “Google Earth”. Sourcing areas will be indicated by the outline polygon around clusters of geo-coordinates. At no point are geo-coordinates or geo-spatial information transferred to third parties.

- 7.3 Subject to the stipulations above, any data collected, stored, and used by 4C is not made publicly available or passed on by 4C to third parties. Such data (e.g. audit reports) will only be made publicly available by 4C or be passed on to third parties if the ME or the respective third party concerned (e.g. Business Partners of a 4C Unit) have given their explicit consent to the publication or passing on of this data, or if 4C is obliged to pass on this information by law or due to official or judicial conditions or orders. The consent of the ME or third party has to be given in writing. The consent of third parties may be given as part of the audit. If the ME provides personal data regarding third parties, e.g. by naming contact persons, it is responsible for the completeness and correctness of such data. The ME shall exempt 4C from any and all claims, including claims for compensation, which are asserted against 4C by third parties due to a violation of their rights by the use, publication, or transmission of their data.
- 7.4 Should the ME hire different CBs for consecutive audits or verification of Annual Updates, 4C shall be entitled to forward to the new CB any and all data collected by 4C concerning the 4C Unit, in particular with regard to last certifications and audits of other CBs and/or previous integrity assessments.
- 7.5 Should the ME contact 4C (for example, by post, contact form or email), the information is stored for the purpose of processing the request and in the event of any follow-up questions arising to the extent allowed by the applicable laws.
- 7.6 4C takes technical and organisational security measures to protect data collected, including any personal data, against loss, manipulation, or unauthorised third-party access. The technical procedures used in this context are developed further and improved according to the technological progress. 4C points out that it is not possible to guarantee comprehensive absolute protection.

8. Infringements and Liability of the ME

- 8.1 Any infringements of the 4C Code of Conduct and 4C System Regulations or duties from Sections 3.6 and 3.8 committed by the ME and its 4C Unit may result in coffee entering the market as 4C certified, but which in fact does not meet the stipulated 4C requirements to which the ME has voluntarily agreed to commit to. This may lead to adverse effects on the integrity and/or recognition of the 4C certification system, and may trigger legal duties and actions by 4C, CB, and/or authorities. Infringements will be handled according to the rules specified in the 4C System Regulations, chapter 3.8 “Non-conformities, Infringements and Sanctions”.

- 8.2 In the event of severe and critical infringements as specified in the 4C System Regulations, the CB shall be entitled to, in addition to the provisions in Section 10.2 of these ToU ME, withdraw the certificate of the ME and its 4C Unit and 4C shall be entitled to suspend them from recertification for a specified period of time as outlined in the 4C System Regulations, chapter 3.8 “Non-conformities, Infringements and Sanctions”. The ME must remove the certificate issued in PDF format, the 4C name and 4C logo from any means of communication, whether digital (e.g. web pages, social media networks) or analogic (e.g. printed documents) without undue delay.
- 8.3 Any further consequences of an infringement based on legal regulations, official decisions, or rules of a national or international system, or a voluntary commitment shall remain unaffected.
- 8.4 The ME is obliged to compensate 4C for any loss suffered due to any culpable infringements as specified in the 4C System Regulations and ToU ME. The ME must exempt 4C from any claims asserted against it by third parties due to culpable infringements or culpable violations of other contractual duties.
- 8.5 In the event of a culpable serious infringement as specified in the 4C System Regulations, 4C is entitled to claim a contractual penalty calculated at equitable discretion but limited to EUR 10,000.00 (in words: ten thousand). 4C has the right to claim for damages exceeding the contractual penalty. The contractual penalty is credited against the claim for damages.

9. Liability of 4C

- 9.1 4C shall be liable for any damage it may cause, through its legal representatives, or its performing and vicarious agents on the basis of the culpable injury to life, body or health, according to the Product Liability Act (Produkthaftungsgesetz), as well as within the framework of an expressly assumed guarantee. Furthermore, the liability of 4C, its legal representatives, or its performing and/or vicarious agents shall be excluded, insofar as the damage is not caused by grossly negligent or intentional violations of duty of its legal representatives or officers.
- 9.2 In the event of any grossly negligent or intentional behaviour of the other performing agents, the liability shall be limited to cases of violation of the material contractual duties.
- 9.3 In the event of ordinary negligence, the liability shall be limited to any foreseeable damage typical for the contract which arises from the violation of material contractual duties.
- 9.4 4C shall reserve the right to plead contributory fault. In particular, the ME is obliged to back up the data according to the current state-of-the-art technology. In the event of loss of data, 4C is liable only for the expenditure that would have been necessary for the restoration of the data if the ME had made proper and regular backups.
- 9.5 Insofar as the liability of 4C is excluded or limited, this shall also apply to the personal liability of its representatives, performing and vicarious agents.

10. Duration of the Agreement based on the 4C Terms of Use for MEs

- 10.1 The acceptance of the ToU ME remains valid starting from the time of the application made by the ME and validated by 4C until the expiration or withdrawal of the 4C certificate. With each new validated application, the acceptance of the ToU ME needs to be renewed.
- 10.2 The ME's right to use the 4C certification system terminates once the 4C certificate has expired or the CB has withdrawn the 4C Unit's certificate due to reasons specified within the 4C System Regulations, Section 3.8 "Non-Conformities, Infringements and Sanctions". Further, the CB may withdraw the certificate especially if
 - 10.2.1 The ME, grossly negligently or with intent, provides inaccurate or incomplete information to 4C or the CB;
 - 10.2.2 CB receives notice that a current 4C Unit was originally certified under 4C as a different 4C Unit, but with the same ME in charge, which did not apply for recertification in order to avoid being audited against stricter requirements;
 - 10.2.3 CB receives notice that a 4C Unit was originally certified under 4C as a different 4C Unit, but with the same ME in charge, which was suspended from recertification and the "new" 4C Unit was set up and certified to circumvent the suspension from recertification;
 - 10.2.4 The ME and its 4C Unit are not able to fulfil the obligations under the current ToU ME and 4C System Regulations.

11. Miscellaneous

- 11.1 All documents mentioned in this ToU ME as well as the 4C Glossary are a binding part of the contract and can be found on the 4C website [here](#).
- 11.2 The law of the Federal Republic of Germany shall apply under exclusion of the UN Convention on Contracts for the International Sale of Good (CISG).
- 11.3 The place of jurisdiction for all disputes arising from the ToU ME shall be Cologne.