

General Terms and Conditions of Purchase of UPdrinks GmbH

UPdrinks GmbH · Lilienthalstraße 51 · 64625 Bensheim · Germany · HRB 105883 Local Court Darmstadt · pulse-vending.de/einkaufsbedingungen

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Section 1 Scope, order of precedence

(1) These Terms and Conditions of Purchase apply to all orders and contracts under which UPdrinks GmbH, Lilienthalstraße 51, 64625 Bensheim, Germany ("we" or "Buyer"), purchases goods – in particular vending machines, coffee machines, payment systems, components, spare parts and packaging – or services from entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB) ("Supplier"). They also apply to all future transactions with the Supplier without our having to refer to them again.

(2) Deviating, conflicting or supplementary terms of the Supplier do not become part of the contract, even if we accept or pay for a delivery without reservation in the knowledge of such terms. They apply only if we have expressly agreed to them in Text Form.

(3) Order of precedence in case of conflict: (1) individual agreements in the order or a framework agreement, including the specification referred to therein, (2) these Terms, (3) other documents referred to in the order, (4) the Supplier's offer, insofar as it does not conflict. The statutory precedence of individually negotiated agreements (Section 305b BGB) remains unaffected.

(4) Definitions: **Working Day** (Werktag) means Monday to Saturday, excluding statutory public holidays in the German state of Hesse. **Text Form** (Textform, Section 126b BGB) means a readable declaration on a durable medium that identifies the person making it; no handwritten signature is required; e-mail suffices. **Without undue delay** (unverzüglich) means without culpable delay. **Registered office** (Sitz) means the Supplier's statutory seat or principal place of business. German legal terms given in brackets have the meaning they have under German law.

Section 2 Orders, conclusion of contract

(1) Only orders in Text Form (e-mail, ordering portal, PDF) are binding. Oral agreements require our confirmation in Text Form.

(2) The Supplier shall confirm the order in Text Form within five Working Days. Any deviation of the confirmation from the order must be clearly highlighted; in that case the contract is concluded only upon our consent in Text Form. If the Supplier does not accept within this period, we may revoke our order (offer).

(3) Cost estimates, samples, drawings and advisory services of the Supplier in connection with an order are free of charge unless otherwise agreed.

Section 3 Prices, delivery terms, payment

(1) The price stated in the order is a fixed price. It includes all services and ancillary services of the Supplier (in particular packaging, documentation, proof of conformity, software licences). The delivery term is the Incoterms® 2020 clause agreed in the individual order. If nothing is agreed, **DAP Bensheim warehouse** applies to Suppliers whose registered office is in the EU; for Suppliers whose registered office is outside the EU, **FOB named port of shipment** applies to sea freight and **FCA named place of delivery** to other modes of transport; in these cases we arrange and insure the main carriage ourselves.

(2) Prices are exclusive of statutory VAT, where applicable. Invoices must state our order number, the item descriptions and – where available – serial numbers, and, insofar as German VAT law applies, must comply with Section 14 of the German VAT Act (UStG); invoices without these details do not trigger the payment period.

(3) Unless otherwise agreed, payment is made within 14 days with a 3 % early-payment discount (Skonto) or within 30 days net, calculated from the later of complete delivery and receipt of a compliant invoice – for deliveries subject to formal acceptance (Abnahme), from the later of such acceptance and receipt of a compliant invoice. Payment does not constitute acknowledgement that the delivery is in conformity with the contract.

(4) We make advance payments only if their amount is agreed in the order, and only against an order confirmation with a binding production and delivery date. We require a suretyship securing repayment of the advance payment (Anzahlungsbürgschaft) or equivalent security only if the order expressly provides for it.

(5) We are entitled to rights of set-off and retention to the extent provided by law. The Supplier may set off only undisputed claims or claims established by final judgment, and may assign claims against us only with our consent; Section 354a of the German Commercial Code (HGB) remains unaffected.

(6) A simple retention of title (einfacher Eigentumsvorbehalt) securing only the purchase price of the respective delivery is accepted. Retentions of title securing other claims (erweiterter Eigentumsvorbehalt), extending to resale proceeds or receivables (verlängerter Eigentumsvorbehalt) or securing claims of group companies (Konzernvorbehalt), and processing clauses in the Supplier's favour do not apply. We may dispose of the goods in the ordinary course of business, in particular resell them.

Section 4 Delivery, delivery dates, delay, contractual penalty

(1) Agreed delivery dates and periods are binding. The decisive factor is receipt of the complete delivery, including documentation, at the agreed place of delivery or successful formal acceptance (Abnahme).

(2) The Supplier shall inform us without undue delay (unverzüglich) in Text Form as soon as it becomes apparent that a date cannot be met, stating the reason and the expected duration. Such notice does not affect the binding nature of the date.

(3) If the Supplier is in default in respect of delivery (Lieferverzug, Section 286 BGB), we may claim a **contractual penalty (Vertragsstrafe, Sections 339 et seq. BGB – not a common-law penalty) of 0.3 % of the net value of the delayed delivery for each Working Day commenced, capped at 5 % of the net value of the delayed delivery**. We reserve the right to claim the contractual penalty when taking delivery of delayed goods; the reservation may also be declared later, but no later than final payment. The contractual penalty is credited against damages for the same delay; further statutory rights (damages, rescission (Rücktritt), recovery of the costs of a substitute purchase (Deckungskauf)) remain unaffected.

(4) Partial deliveries and deliveries before the agreed date require our consent. Over- or under-deliveries are permitted only within the agreed range.

(5) Risk of accidental loss of or damage to the goods passes to us in accordance with the Incoterms® 2020 clause agreed or applicable under Section 3(1); where formal acceptance (Abnahme) is agreed, only upon such acceptance. Mere receipt of the goods does not constitute formal acceptance.

(6) Force majeure releases the Supplier only for the duration and to the extent of the disruption, provided the Supplier notifies us without undue delay and takes all reasonable remedial measures. If the disruption lasts longer than two months, we may rescind (Rücktritt) the unperformed part of the contract. The Supplier's own supply shortages, capacity shortages and price increases do not constitute force majeure.

Section 5 Quality, conformity, documentation

(1) The Supplier shall ensure that the goods conform to the agreed specification, the laws and regulations applicable in Germany and the EU at the time of delivery, and the recognised state of the art (anerkannter Stand der Technik). This includes in particular: CE conformity with a complete EU declaration of conformity and technical documentation; the General Product Safety Regulation (EU) 2023/988 (GPSR), including manufacturer information and traceability; the Low Voltage, EMC and – where radio modules are included – Radio Equipment Directives; RoHS and REACH, including the duty to provide information on substances of very high concern (Art. 33 REACH); ElektroG/WEEE marking; packaging regulations; where the goods come into contact with food, the applicable food contact regulations; for refrigerants, the F-Gas Regulation; for refrigerated appliances, energy labelling and ecodesign (Delegated Regulation (EU) 2019/2018, Regulation (EU) 2019/2024); for built-in batteries, the Batteries Regulation (EU) 2023/1542, in particular, from 18 February 2027, the removability and replaceability requirements of Art. 11 applicable to the relevant battery category, including the exemptions provided therein.

(2) With every first delivery of a type and upon request, the Supplier shall provide: the EU declaration of conformity, test reports (LVD/EMC/RED), a bill of materials of safety-relevant components, operating instructions,

installation instructions and safety information, **all in German**, a spare parts list with part numbers, wiring diagrams and the firmware version; for refrigerated appliances, a test report according to EN 50597 stating the energy efficiency index and class, the product information sheet and the technical documentation for registration in EPREL; the type and category of each built-in battery; the material and weight of the packaging per unit. Missing or incomplete documentation entitles us to reject the goods; to that extent the delivery is deemed not to have been made.

(3) Upon request, the Supplier shall name the manufacturer within the meaning of the product safety regulations, the economic operator established in the EU (Art. 4 of Regulation (EU) 2019/1020) and the importer/manufacturer marking. Insofar as we are deemed the importer, the Supplier shall provide us with all documents and evidence we need to fulfil our obligations and keep them available for at least ten years.

(4) Changes to design, material, components, firmware or place of manufacture after approval of the initial sample require our prior consent in Text Form.

(5) Statements on the characteristics of the goods in offers, data sheets and sample approvals form part of the agreed characteristics (vereinbarte Beschaffenheit, Section 434 BGB).

Section 6 Incoming goods, inspection, notice of defects

(1) We inspect incoming goods without undue delay (unverzüglich) for externally visible transport damage, identity and quantity on the basis of the delivery documents.

(2) We give notice of obvious defects (Mängelrüge) within **ten Working Days** after the goods arrive at our premises (Ablieferung) and of other defects within **ten Working Days** after their discovery. Notice is timely if it is sent within this period. Functional defects that only become apparent on commissioning are deemed hidden defects.

(3) Safety-relevant defects always entitle us to reject the affected units and, where there are reasonable grounds to suspect a defect common to the product type (Typmangel), the entire batch. Otherwise, a defect rate of more than 3 % of the quantity of a delivery entitles us to reject the delivery or to have it fully inspected at the Supplier's expense.

Section 7 Liability for defects (Gewährleistung), cure, recourse, spare parts

(1) The statutory rights in respect of defects apply unless more extensive provisions are set out below.

(2) We may choose between repair and replacement as the means of cure (Nacherfüllung). The Supplier bears all costs required for cure, including removal and installation, transport, travel and working time, even if the goods have already been installed at the end customer's premises. If the Supplier fails to carry out properly requested cure within a reasonable period, or if such a period is unreasonable because of a standstill at the end customer or danger to persons, we may remedy the defect ourselves or have it remedied by third parties and claim reimbursement of the necessary, documented expenses. We will notify the Supplier of the intended measure in Text Form beforehand, insofar as time permits.

(3) **The limitation period for claims for defects is 24 months from the passing of risk (Gefahrübergang); for goods that we supply onward to end customers in accordance with their intended purpose (sale, rental or leasing), 24 months from delivery to the end customer, but no more than 36 months from the passing of risk to us.** For a repaired or replaced part, a new 24-month period begins upon completion of the repair or delivery of the replacement part; it ends no later than 36 months after the original passing of risk to us. For the rest of the appliance, the original period continues to run. Our rights of recourse under Sections 445a, 445b and 478 BGB are available in full.

(4) The Supplier shall keep **spare parts for every type of appliance delivered to us available for at least ten years after the last delivery to us of series-production units of that type**. The Supplier shall notify us in Text Form of any discontinuation or significant restriction of spare parts supply at least twelve months in advance and shall offer us a last-time buy at the then applicable list prices within this period. A price commitment beyond the individual order applies only if agreed in a framework agreement.

(5) The Supplier shall provide, free of charge, safety-relevant firmware updates required for payment components to continue to operate in accordance with the applicable approvals (zulassungskonformer Betrieb) or for product

safety, until the later of (i) expiry of the limitation period under paragraph (3) and (ii) five years after the last delivery to us of series-production units of the relevant type.

Section 8 Product liability, indemnification, insurance, recall

(1) The Supplier shall indemnify us against all third-party claims arising from product liability, product safety and infringement of intellectual property rights (Schutzrechte), insofar as the cause lies within its sphere of control and organisation (Herrschafts- und Organisationsbereich), and shall reimburse us for the costs of an appropriate legal defence. We remain in control of the proceedings; the Supplier shall accept a third-party notice (Streitverkündung) and, at our request, join the proceedings on our side as a supporting intervener (Streithelfer, Sections 66 et seq. of the German Code of Civil Procedure, ZPO), to the extent the applicable procedural law permits.

(2) The Supplier shall ensure that the goods are free from third-party rights and that their distribution in Germany and the EU does not infringe any patents, trademarks, designs or copyrights.

(3) The Supplier shall maintain product liability insurance with a minimum limit of EUR 5 million per occurrence (Schadensereignis) for bodily injury and property damage, including extended product liability coverage (erweiterte Produkthaftpflichtversicherung) and coverage for recall costs, and shall provide evidence thereof upon request. If a Supplier cannot provide evidence of this coverage, this must be recorded as a deviation in the order.

(4) In the event of product warnings or recalls based on a defect of the goods, the Supplier shall cooperate without undue delay (unverzüglich) and bear the necessary costs (in particular customer information, logistics, retrofitting).

Section 9 Confidentiality, documents, intellectual property

(1) All specifications, drawings, quantities, prices, customer data and other non-public information provided by us shall be kept confidential, used only for the execution of our orders and returned or deleted after completion. This obligation continues for five years after the end of the contract.

(2) Tools, moulds and documents paid for or provided by us are our property, shall be marked as such and used only for us.

(3) The Supplier may neither offer nor exhibit to third parties products manufactured according to our specifications (special designs, branding, firmware adaptations).

Section 10 Minimum standards, compliance

(1) The Supplier undertakes to comply with the labour, social and environmental regulations applicable at the place of manufacture, not to use forced or child labour, and to impose corresponding obligations on its sub-suppliers. It shall support us in providing information and in audits relating to these requirements.

(2) The Supplier shall comply with export control and sanctions regulations and inform us of the export control classification of the goods.

Section 11 Applicable law, place of jurisdiction, arbitration, final provisions

(1) The law of the Federal Republic of Germany applies, excluding the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict-of-laws rules.

(2) For Suppliers whose registered office is in the European Union or the European Economic Area, the state courts having subject-matter jurisdiction for 64625 Bensheim, Germany, have exclusive jurisdiction. We may also sue the Supplier at its general place of jurisdiction.

(3) If the Supplier's registered office is outside the EU/EEA, all disputes arising in connection with the contract shall be finally settled under the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts. The arbitral tribunal consists of a sole arbitrator; the seat of arbitration is Frankfurt am Main, Germany, and the language of the proceedings is English. The award shall be final and binding and enforceable under the New York Convention of 1958. We ask the Supplier to confirm this arbitration agreement separately in Text Form when confirming the order. If it is invalid, paragraph (2) applies accordingly.

(4) These Terms are issued in German and English. For Suppliers whose registered office is outside both the EU and the EEA, the English version prevails over the German version; the controlling language of each order, framework agreement and specification is stated in that document. Legal terms in both versions shall be interpreted in accordance with German law. Amendments require Text Form.

(5) Should any provision be invalid, the remainder of the contract remains valid; the statutory provisions apply in place of the invalid provision.