

## General Conditions of Purchase of DSI Getränkarmaturen GmbH (revised 08/2015)

### 1. General provisions, scope

- 1.1 Our Conditions of Purchase shall apply exclusively; we do not recognise conditions of purchase of the Supplier that contradict or deviate from our Conditions of Purchase unless we have expressly agreed to their validity in writing. Our Conditions of Purchase shall apply even if we accept the Supplier's delivery without reservation, despite being aware of conditions of purchase of the Supplier that contradict or deviate from our Conditions of Purchase.
- 1.2 Our Conditions of Purchase shall apply only with regard to entrepreneurs (section 14, German Civil Code), legal persons under public law and special funds under public law.

### 2. Offer / order

- 2.1 Our orders shall not be regarded as binding until submitted or confirmed in writing.
- 2.2 Unless we have expressly dispensed with an order confirmation, every order must be confirmed to us in writing within one week, stating the binding delivery period. A delayed or supplementary acceptance of our order shall be deemed to be a new offer and shall require acceptance by us.
- 2.4 If we initially request an offer, the Supplier must in its quotation adhere precisely to the information in our enquiry with regard to the quantity and characteristics of the goods. If there are any deviations, these must be expressly pointed out. The offer shall be submitted at no cost to us. Our acceptance period shall be one week from receipt of the offer.

### 3. Prices, payment terms

- 3.1 The price stated in the order shall be binding. All prices shall be understood to include statutory value-added tax unless otherwise stated.
- 3.2 Unless otherwise agreed in the individual case, the price shall include all services and ancillary services of the Supplier (e.g. assembly and installation), as well as all additional costs (e.g. appropriate packaging and transport costs, including any transport and liability insurance). The Supplier must take back packing materials at our request.
- 3.3 We can only process invoices if they state our order, article and supplier number. If these details are not stated and, as a result, processing is delayed within the framework of our normal course of business, the payment terms set out in section 3.4 shall be extended accordingly.
- 3.4 Unless otherwise agreed in writing, we shall pay the purchase price with a 3% discount within 14 days, calculated from delivery and receipt of the invoice, or in full within 60 days of receipt of the invoice. The payment terms shall begin on receipt of a valid invoice or, if the goods arrive after the invoice, on receipt of the goods. For our payments to be punctual, it shall be sufficient for a transfer order to have been received by our bank before the end of the payment term.
- 3.5 We shall not be obliged to pay default interest. Should we default in payment, the annual rate of default interest shall be 5 percentage points above the base rate. The time at which we default in payment shall be governed by the statutory provisions, although a reminder by the Supplier shall be necessary in any case.
- 3.6 We shall be entitled to rights of offsetting and retention to the extent permitted by law. The Supplier may assert a right of offsetting or retention only insofar as its claim is undisputed, accepted or legally established as final.
- 3.7 There shall be no right to assign a claim against us to third parties unless we have expressly agreed to this in writing.

### 4. Delivery period

- 4.1 The delivery period stated in the order shall be binding.
- 4.2 The Supplier shall be required to inform us in writing immediately if circumstances arise or become known to it that mean it is impossible to comply with the agreed delivery period.
- 4.3 If the Supplier fails to render its performance or fails to do so within the agreed delivery period, or if it is in default, our rights – in particular to revocation and damages – shall be determined by the statutory provisions. This shall not affect the provisions in clause 4.4.
- 4.4 In the event of default in delivery, we shall be entitled to demand lump-sum default damages equal to 1% of the net price per completed week up to a maximum of 5% of the net price of the goods that are delivered late; we reserve the right to assert further statutory claims (revocation and damages in lieu of performance), taking into account the lump-sum compensation payment. In particular, we shall be entitled to prove that a

greater loss was incurred. The Supplier shall be entitled to prove to us that no loss at all or a lesser loss was incurred as a result of the default.

- 4.5 If the Supplier misses a deadline, and it therefore becomes necessary for us to use an accelerated mode of shipping to our customers, the Supplier shall bear all of the resulting additional costs.

### 5. Delivery, transfer of risk

- 5.1 Delivery shall be made duty-paid (DDP according to Incoterms 2010 or the current version) to our headquarters in Hamm.
- 5.2 The Supplier shall be required to manufacture the goods itself. If it buys the goods or constituents of the goods from outside suppliers or has the goods manufactured by subcontractors, it must accept liability for faults of its outside supplier and/or subcontractor in accordance with section 278 of the German Civil Code (BGB).
- 5.3 The place of performance shall be Hamm.
- 5.4 Unless otherwise agreed, the risk shall be transferred to us on delivery of the goods to the agreed place/point of receipt. If acceptance is agreed, this shall determine the transfer of risk.
- 5.5 The Supplier shall be required to state our order numbers accurately on all shipping documents and delivery notes; if it fails to do so, we shall not be responsible for resulting delays in processing.
- 5.6 The time at which we default in acceptance shall be governed by the statutory provisions. However, the Supplier must expressly offer us its performance even if a specified or specifiable calendar period is agreed for action or cooperation on our part (e.g. provision of materials). If we default in acceptance, the Supplier may demand compensation for its additional expenses in accordance with the statutory provisions (section 304 of the German Civil Code). If the Agreement relates to an unreasonable item that is to be produced by the Supplier (one-off production), the Supplier shall be granted further rights only if we have agreed to cooperate and are responsible for the failure to cooperate.

### 6. Investigation of defects, liability for defects

- 6.1 Our commercial obligation to examine and report defects shall be governed by section 377 of the German Commercial Code (HGB) subject to the following conditions: we shall examine the delivered goods immediately after receipt with regard to type, quantity and obvious damage, including transport damage in particular, and shall report any discovered defects immediately. Defects discovered at a later time are also to be reported immediately after discovery. In any case, the report of defects shall be deemed to be immediate and punctual if it is received by the Supplier within a period of 10 working days, calculated from the time of goods receipt or, for hidden defects, from the time of discovery.
- 6.2 We shall be entitled to our statutory rights in respect of defects without restriction.
- 6.3 In accordance with the statutory provisions, the Supplier shall be liable in particular for ensuring that the goods have the agreed characteristics and correspond to the current state of the art upon transfer of risk to us. In particular, the drawing submitted by DSI, specifications and data sheets relating to the goods, and the details in our order shall be deemed to be an agreement on the characteristics unless otherwise agreed.
- 6.4 If initial sampling is carried out, this shall not affect any of DSI's rights, including in particular warranty rights and rights to compensation.
- 6.5 If we set a reasonable grace period for supplementary performance and this period expires unsuccessfully, we may rectify the defect ourselves and demand compensation for the necessary expenses and/or a corresponding advance payment, unless the Supplier justifiably refuses to render supplementary performance. If the Supplier refuses to render supplementary performance without good reason or if the Supplier's supplementary performance has failed or is unreasonable for us (e.g. because of particular urgency, a risk to operational safety or imminent occurrence of disproportionate losses), it shall not be necessary to specify a grace period; the Supplier is to be informed immediately or, if possible, in advance.
- 6.6 The Supplier shall bear the costs it incurs for the purposes of examination and repair (including any costs for installation and removal). In the event of an unjustified demand for the remedy of a defect, we shall only be liable to pay compensation for damages if we recognised or, through gross negligence, failed to recognise that no defect was present.

### 7. Product liability, indemnity, precautionary measures, liability insurance cover

- 7.1 Insofar as the Supplier is responsible for product damage, it shall be required on first request to indemnify us against claims for damages by

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third parties to the extent that the cause lies within the Supplier's sphere of control and organisation and the Supplier itself is liable in relation to third parties.

- 7.2 Within the framework of its liability for cases of damage referred to in clause 7.1, the Supplier shall also be required to reimburse any expenses pursuant to sections 683 and 670 or pursuant to sections 830, 840 and 426 of the German Civil Code (BGB) that arise from or in connection with a claim by third parties. This shall not affect other statutory rights.
- 7.3 The Supplier shall also be required to bear the costs of precautionary measures, as well as of resulting damages, if the reason for the precautionary measure lies within the Supplier's sphere of control and/or organisation and the Supplier itself is liable in relation to third parties. Before carrying out precautionary measures, we shall inform the Supplier – where it is possible and reasonable to do so – of the reason, type and extent of the measure and shall give it an opportunity to comment. Precautionary measures are measures that relate not only to individual defective products of ours but to a large number of our products, including in particular product recalls and retrofits.
- 7.4 The Supplier undertakes to take out and maintain business liability, property damage and product liability insurance with an insured sum of 10 million euros per loss from a demonstrably solvent and recognised insurance company for the duration of this supply agreement and for a period of 60 months after delivery of the last item supplied to DSI.

### 8. Property rights

- 8.1 The Supplier warrants that no third-party property rights are violated in connection with its performance and the designated use of the delivered items or the manufactured work.
- 8.2 If a claim is asserted against us by a third party for such reasons, the Supplier shall be required to indemnify us against these claims on first written request. This shall not apply if the Supplier is not responsible for the relevant violation of property rights. We shall not be entitled – without the Supplier's consent – to conclude any agreements, including in particular a settlement, with the third party.
- 8.3 The Supplier's duty to indemnify us shall relate to all expenses incurred by us as a result of or in connection with the third-party claim.

### 9. Retention of title, provision of materials

- 9.1 Insofar as we provide the Supplier with parts, we shall retain ownership of these parts. Processing or transformation by the Supplier shall be carried out on our behalf. If our goods subject to reservation of title are processed with other items that do not belong to us, we shall acquire co-ownership of the new thing in accordance with the ratio of the value of our thing (purchase price plus VAT) to that of the other processed items at the time of processing.
- 9.2 If the thing provided by us is inseparably intermixed with other items that do not belong to us, we shall acquire co-ownership of the new thing in accordance with the ratio of the value of the thing subject to retention of title (purchase price plus VAT) to that of the other intermixed items at the time of intermixing. If the intermixing is carried out in such a manner that the thing owned by the Supplier is to be seen as the main thing, it shall be deemed to have been agreed that the Supplier will transfer proportional co-ownership to us; the Supplier shall keep the sole or joint property safe on our behalf.
- 9.3 Ownership of the delivered goods shall be transferred to us on complete payment for the goods. We shall also be entitled to use, process, transform or intermix and resell the delivered goods in the course of normal business even before payment of the purchase price. It shall not be permissible to extend or transfer retentions of title or to lengthen them to include further processing.

### 10. Documents, manufacturing equipment, tools

- 10.1 We shall retain rights of ownership and copyright of images, drawings, calculations and other documents. These are to be used exclusively for the purposes of manufacturing based on our order; once the order is complete, they must be returned to us on the Supplier's own initiative.
- 10.2 The above provision shall apply accordingly to substances and materials provided by us (e.g. software, finished and semi-finished products), as well as to tools, templates, specimens and other items that we provide to the Supplier for the purposes of manufacturing. Items of this kind are to be used exclusively for manufacturing the goods ordered by us. So long as they are not processed, they are, at the seller's expense, to be kept separately, labelled as our property and insured to a reasonable extent against destruction and loss. The Supplier hereby already assigns to us

all claims for compensation arising from this insurance in respect of the items provided by us; we hereby accept the assignment.

- 10.3 We shall acquire ownership of all existing tools, drawings, models and other manufacturing equipment and those purchased or manufactured specially during the term of the Agreement if these are specifically required for manufacturing the parts ordered by us and we pay the Supplier for them directly. For the purposes of transfer of ownership, it is agreed that the Supplier shall possess the manufacturing equipment on our behalf as a borrower. Apart from this, the provisions in clause 10.2 shall apply accordingly to this manufacturing equipment.
- 10.3 The Supplier shall be required to maintain strict confidentiality in respect of all received images, drawings, calculations and other documents and information. These must be disclosed to third parties only with our express consent. The duty of confidentiality shall not apply if the information is already in the public domain or was demonstrably already known to the Supplier before it was communicated by us. The same shall apply if, after the information is disclosed, it enters the public domain without a breach of the Agreement, is disclosed to the Supplier by third parties without a breach of confidentiality by these third parties, or is developed by the Supplier itself autonomously and independently of the information communicated by us, or if we disclose it to the public or must disclose it to the public because of legal requirements. Damages shall be payable for violations.

### 11. Limitation

- 11.1 The mutual claims of the Contracting parties shall be subject to the statutory limitation periods unless otherwise stipulated below.
- 11.2 By way of derogation from section 438(1)(3) and section 634a(1)(1) of the German Civil Code (BGB), the general limitation period for claims due to material defects or defects in title shall be 60 months from the transfer of risk. If acceptance is agreed, the limitation period shall begin at the time of acceptance. This shall not affect longer statutory limitation periods in respect of defects.
- 11.3 In the event of deliberate concealment of a defect by the Supplier (sections 438(3) and 634a(3) of the German Civil Code), and insofar as we are also entitled to claim concurrent contractual and/or non-contractual compensation for damages as a result of a defect, this shall be subject to the regular statutory limitation period (sections 195 and 199 of the German Civil Code); however, the limitation period shall not expire before the end of period set out in clause 11.2. This shall not affect the statutory limitation periods according to the German Product Liability Act (ProdHaftG), but the limitation period shall not expire before the end of the period set out in clause 11.2.

### 12. Requested documents, export restrictions

- 12.1 Documents requested by us in relation to the delivery, such as in particular proof of origin and supplier's declarations, safety data sheets, material data sheets, material certificates and declarations of conformity, shall be furnished with all required information, duly signed, and made available by the Supplier.
- 12.2 The Supplier shall inform us if a delivered item is wholly or partially subject to export restrictions under the foreign trade legislation of Germany or another country (e.g. the USA).

### 13. Applicable law, place of jurisdiction, place of performance

- 13.1 The business relationships and the entire legal relationship between the Supplier and us shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 13.1 If the Supplier is a merchant, the place of jurisdiction shall be our place of business in Hamm; we shall, however, also be entitled to bring legal action against the Supplier at its local court.
- 13.2 Should a provision of these Conditions of Purchase or a provision within the framework of other agreements be or become ineffective, this shall not affect the effectiveness of all other provisions or agreements.

### 14. Data Protection

- 14.1 The parties shall process the personal data entrusted to them in the context of the cooperation in compliance with the applicable data protection provisions. This includes in particular the lawfulness of processing, processing in good faith and transparency, purpose limitation, data min-

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imization, accuracy of processing, storage limitation or deletion as well as the integrity and confidentiality of the personal data. They shall impose these obligations on all persons entrusted by them with the performance of the contract. This shall also apply in the event of any processing by third parties, which shall be carried out exclusively in compliance with the applicable data protection provisions.

- 14.2 The parties undertake to provide evidence of compliance with this obligation in the form required by the statutory provisions to the data protection officer of the other party upon request.
- 14.3 With regard to the information obligations pursuant to Article 13 of the EU General Data Protection Regulation and for further information on the handling of personal data of our business partners, we refer to our Privacy Policy <https://www.dispensegroup.com/data-protection/>.