DrinkStar GmbH – International General Terms and Conditions of Sale and Delivery

I. General: Our sales, deliveries and services (hereinafter: „deliveries") are exclusively subject to the following terms and conditions. They are deemed accepted by the Buyer unless the Buyer objects to them in writing immediately after obtaining knowledge of them. Any deviating terms used by the Buyer shall not be effective unless approved in writing by us. Approved deviations shall only apply to a certain individual case and shall have no effect in the future. Our terms and conditions also apply if we are aware of conditions used by the Buyer that deviate from our own and we execute delivery to the Buyer without making reservations in this respect. The Buyer of Velcorin® deliveries agrees to use Velcorin® only in accordance with the manufacturer's instructions and with the applicable statutory regulations, and further agrees not to give Velcorin® to third parties. Labels with our brand logos shall only be used for products made of our compounds.

II. Prices and order volumes: Unless otherwise agreed, all prices quoted are ex works and net of the statutory VAT valid at that time. Taxes, surcharges, import and export fees as well as customs fees may arise in addition thereto. Deliveries of compounds, flavours and readymade beverages by our regular tour service are made on a carriage free to destination basis when the invoice value is EUR 350.00 net or more. Customers who are included in the tour service receive their deliveries on an ex works basis in the case of orders that do not fall within the regular tour service. Unless otherwise agreed, customers who are not included in the tour service receive their deliveries carriage free to destinations in Bavaria, Baden-Württemberg and Austria when the invoice value is EUR 750.00 net or more. Deliveries of Velcorin® are made carriage free to destinations in Germany and Austria. The minimum order volume for Velcorin® is 60 kg. For orders with a volume lower than this minimum, an appropriate surcharge is invoiced by us.

III. Payment: Our invoices must be paid within the agreed term of payment. Should no term of payment have been agreed, invoices must be paid without any deduction within 10 days after the date of the invoice. The criterion for timely payment is the date on which payment is received on our accounts. The Buyer may not set off counterclaims unless these have been declared in writing to be undisputed, or have been established by a final court decision, or have been accepted from us. If payment is not made by the deadline, applicable laws regarding delayed payment become effective. If an invoice is not settled by the due date, all subsequently issued invoices shall simultaneously become due for payment also. We reserve the right to credit payments as settlement of the oldest due invoices and the default interest and costs incurred on them, and specifically in the order: costs, interest, principal. Velcorin®, advertising prepayments and advertising fees are not eligible for discounts. All other invoices shall not eligible for discounts unless approved in writing by us. A deduction of discount on a new invoice is illicit as long as older invoices due for payment are still outstanding.

IV. Transfer of risk and insurance: The material risk is transferred to the Buyer at the latest when the consignment is dispatched, even when we have agreed to provide additional services such as loading, transport or unloading. If delivery is delayed due to circumstances for which the Buyer is responsible, the price risk shall pass to the Buyer on the day that notification is made of readiness for dispatch. Deliveries are insured by us only at the express request and to the account of the Buyer. Reports of delays, loss or damage in transit must be made to the carrier or forwarder immediately after they have been established, and confirmation of such delay, loss or damage must be obtained from the carrier or forwarder. We must be informed thereof without delay.

V. Force majeure: Circumstances beyond our control, such as operational or transport disruptions, scarcity of labour, energy or raw material, strikes, lock-outs and fire damage, official measures and similar circumstances beyond our control shall release us from our duty to fulfil the contract for the duration and extent of such circumstances. This principle shall also apply if such circumstances arise with one of our suppliers.

VI. Delivery date and delivery weight: The type and scope of delivery is defined by our written confirmation of order. We have the right to make partial deliveries when this is reasonable for the customer. Delivery deadlines are only approximate unless we have explicitly stated in writing that they are binding. The delivery deadline has been met if the consignment has left our plant by that time, or notification has been made of our readiness to deliver. The weight or quantity determined on dispatch is definitive.

VII. Offer, specimens, guarantees: Our offers are non-binding on us in respect of quantity, price, delivery period and availability. Offers can only be accepted within 14 days. The information included in data sheets, brochures and other promotional or informational material is purely for informational purposes and is not incorporated in the contract unless we have explicitly consented thereto in writing. Properties of specimens and samples are not binding on us unless this has been explicitly agreed in writing. Specifications of quality and shelf life qualify as guarantees only when they are explicitly designated as such in writing.

VIII. Packaging: Returnable loaned packaging supplied by us are our property. Returnable loaned packaging shall be treated with care and returned in top condition. If loaned packaging is returned in an unusable or damaged state or not in due time as a result of conduct for which the Buyer is responsible, we reserve the right to charge the packaging at its replacement cost. Completely emptied compound loaned packaging shall be returned to our delivery outlets no later than 2 months after delivery, carriage paid, in a good refillable condition. Completely emptied Velcorin loaned packaging shall be returned on full pallets not later than 12 months after delivery (this period may differ in export markets depending on customs regulations). Commercial non-reusable packaging can be returned within Germany at our delivery outlets or we may name waste disposal companies engaged for this purpose. An independent, self-organized waste disposal of commercial non-reusable packaging by the Buyer is possible at any time in Germany and obligatory abroad. It is the obligation of the Buyer to observe legal regulations governing waste and waste disposal. Regulations arising from national consumer packaging laws shall be observed by us or by our contract fillers for non-reusable consumer packaging placed on the market by us. The „Kölner Palettentausch" shall be agreed for palletised consumer goods. After the partial or complete emptying of packaging of all kinds supplied by us, it is not allowed to refill it with other substances or misuse it for any other unrelated purposes.

IX. Warranty and liability: Minor quality variances inherent in our products do not entitle the Buyer to refuse acceptance or to assert warranty claims or compensation. Warranty claims on the part of the Buyer are conditional on the Buyer having duly complied with his statutory duties to examine the goods and report any defects. For the rest, any complaints about discernible defects in the goods must be made in written form within one week after receipt at the destination, and in any case before the goods are used or processed. A sample of the goods complained of must be sent at the same time. Making a complaint does not entitle the Buyer to withhold the purchase price. In the case of hidden defects, the written complaint must be made immediately after discovery of the defect, but at the latest within five months after delivery, without prejudice to limitation of claims. The Buyer bears the burden of proof that the defect was hidden. Goods complained of may not be returned unless the Seller has given its explicit consent. Recommended product declarations and/or recipes provided by us shall not be considered as legally binding information. If the goods supplied by us are processed, the Buyer is always responsible for the observance of the legal requirements, regulations and labelling obligations applicable for its manufactured products. The Buyer is obligated to check and ensure the marketability of its manufactured products itself. Any liability on our part for the manufactured products of the Buyer is excluded.

X. Rights of the Buyer in the case of defects: The Buyer's warranty claims are limited to a right of remedy in the form of subsequent fulfilment. We do not accept any liability for damage caused by the use or processing of defective goods. If efforts at remedy fail, the Buyer may reduce the purchase price or withdraw from the contract, at his own discretion. This is without prejudice to any claims to damages pursuant to Section XI below. Claims by the Buyer in respect of expenses necessitated by remedy, in particular transport, travel, labour and material expenses, will not be accepted if said expenses increase because the delivery item was subsequently brought to a different place than the Buyer's place of business, unless such delivery accords with the normal use of the delivery item. If the warranty is a right of recourse by the Buyer after the latter has been successfully issued under the purchase of consumer goods regulations, the rights of recourse shall remain unaffected due to the regulations governing the purchase of consumer goods. Section XI below applies to claims to damages. The Buyer shall notify us of any case of recourse arising in the supply chain, and shall do so immediately on obtaining knowledge thereof. Any statutory rights of recourse against us on the part of the Buyer shall exist only to the extent that the Buyer has not concluded agreements with his own customers that go beyond the statutory warranty claims. Warranty claims become statute-barred according to statutory regulations.

XI. Damages: Damages claims by the Buyer – including non-contractual claims – will not be accepted in the case of a breach of duty due to minor negligence by us, our executive employees or other vicarious agents of our company. We do not accept liability for indirect damages or for damages that were unforeseeable at conclusion of contract, including consequential and collateral damages, however caused, unless an employee or executive employee of our company has committed a wilful or grossly negligent breach of duty. The above limitations of liability do not apply to damages resulting from injury to life, body or health; these limitations of liability are also without prejudice to mandatory statutory regulations governing liability, such as liability under guarantees, or under the Product Liability Act.

XII. Retention of title: The deliveries (reserved title goods) remain our property until all current and future debts owed to us by the Buyer from our joint business relationship have been repaid. If the Buyer has a current account with us, the reserved title goods are deemed collateral for the debit balance. Our ownership of the reserved title goods also extends to any new products arising from processing or mixing them. The Buyer has the right of disposition over the reserved title goods within the normal course of business. Any other form of disposition, in particular any pledging of the goods, transferral of ownership by way of collateral, or transfer of the goods in a barter transaction, is prohibited. Any levies of execution by third parties must be notified to us without delay. As security for debts owed to us, the Buyer hereby assigns to us all claims arising from resale of the reserved title goods, along with all secondary and collateral rights. If our reserved title goods are sold after processing or mixing with other items, or are sold with other items for a total price, assignment is together limited to the invoice value of the reserved title goods that have been processed, mixed or sold with other items. If the reserved title goods are processed or mixed under a contract for work and services, the payment due under said contract is hereby assigned to us to an amount equal to the invoice value of the reserved title goods that have been processed or mixed. The Buyer is authorised to collect the assigned receivables until said authority is revoked. At our request, the Buyer shall notify his debtors of this assignment and shall surrender to us all information and documents required for collection of the debts. If the value of the collateral exceeds the secured receivables by more than 10%, we shall release the corresponding amount of collateral at the request of the Buyer.

XIII. Withdrawal: In the event that the Buyer does not comply with the agreed terms of payment, or material changes arise in respect of his business circumstances – e.g. a change of owner or execution measures – we shall be entitled to render any continued fulfilment of contract dependent on prior security being provided, e.g. cash in advance, or to withdraw from the contract. We are not liable for any damages that may arise as a consequence. If the goods are taken back by us, or if they are segregated due to our reservation of title, the Buyer shall bear the costs of return.

XIV. Data Protection: Data protection information concerning commercial business-relationship is available at our homepage (www.drinkstar.de) via the tab „Terms & Conditions".

XV. Place of performance and applicable law: The place of performance is Rosenheim. The place of jurisdiction is either Rosenheim or, at our discretion, the Buyer's place of jurisdiction. Legal relations between ourselves and the Buyer are governed exclusively by the laws of Germany. The application of the UN Convention on Contracts for the International Sale of Goods shall be excluded. Should one of the provisions in these terms and conditions or a part of a provision be or become ineffective, this shall not affect the other provisions and/or the remaining part of the provision.

Status: Rosenheim, December 2019

Important information about the processing of your personal data by DrinkStar GmbH

Dear Sir or Madam,

On 25 May 2018 the EU General Data Protection Regulation (GDPR) shall take effect. This will significantly strengthen data protection for citizens in the European Union. The GDPR is the most important data protection regulation in Europe since the EU Data Protection Directive of 1995. After a two-year transition period, the GDPR now replaces the outdated EU data protection directive and, to a large extent, national data protection laws. Unlike a directive, a regulation is directly enforceable in all EU Member States without the need for national transposition laws. In this respect, an EU-wide standardised set of rules on data protection has been created for the first time.

In addition to the standardisation of data protection regulations in the individual EU member states, the GDPR also takes into account the data protection aspects of the central IT trends of the last two decades. It thus raises the level of data protection in the EU Member States. Along with this, it both strengthens the rights of those affected and increases the obligations for companies.

Data Protection Instructions in Accordance with the EU General Data Protection Regulation for Persons with the Power of Representation/Authorised Representatives of "Legal Entities"

Valid for business partners of DrinkStar GmbH in commercial business who are not consumers.

The following information provides you with an overview of the processing of your personal data by us and your rights under data protection law. The following statements reveal in detail which data is processed and how it is used. Please pass on the information to the current and future persons with the power of representation and economic beneficiaries.

1. Who is responsible for data processing and whom can I contact?

The accountable body for customers of DrinkStar GmbH is:

DrinkStar GmbH
Äußere Oberaustraße 36/5
83026 Rosenheim
Telephone: +49 8031 2434-0
Fax: +49 8031 2434-15
Email: info@drinkstar.com

You can contact our corporate Data Protection Officer at:

Dr. Karsten Kinast
Kinast Rechtsanwaltsgesellschaft mbH
Hohenzollernring 54
D-50672 Köln
www.kinast.eu

2. What sources and data do we use?

We process personal data that we receive from you in your capacity as the person with the power of representation/authorised representative of the legal entity (customer, supplier, cooperation partner, etc.). In addition, we also process personal data that we have legitimately gained and are allowed to process from publicly available sources (e.g., trade and association registers, press, media and the Internet). Relevant personal data of persons with the power of representation/authorised representatives may include: name, address / other contact details (telephone, e-mail address), date / place of birth, gender, nationality, marital status, legal capacity, dependent / self-employed, credentials (e.g., ID data), authentication data (eg signature sample), tax ID.

3. Why do we process your data (purpose of processing) and on what legal basis?

We process the aforementioned personal data in accordance with the provisions of the General Data Protection Regulation (GDPR) and the Federal Data Protection Act:
a. To meet contractual obligations (Article 6, para. 1 b, GDPR): The processing of personal data takes place in the context of the execution of our contracts with our business partners or for the implementation of pre-contractual measures.
b. Due to legal requirements (Article 6, para. 1 c, GDPR) or in the public interest (Article 6, para. 1 e, GDPR): DrinkStar GmbH is subject to various legal obligations, i.e., legal requirements (e.g., Money Laundering Act, Securities Trading Act, tax laws, EU regulations) as well as regulatory requirements (such as are imposed by the Federal Financial Supervisory Authority). The purposes of data processing include inter alia identity verification and money laundering prevention.
c. Within the scope of weighing all interests at stake (Article 6, para 1 f, GDPR):
If necessary, we process your data beyond the actual fulfillment of the contract for the protection of our legitimate interests. Examples:
— Asserting legal claims and defence in legal disputes
— Ensuring the IT security and IT operations of DrinkStar GmbH
— Prevention of crime
— Video surveillance to safeguard domiciliary rights
— Measures for building and plant safety (e.g., access control)
d. On the basis of your consent (Article 6 para. 1 a, GDPR:)
Insofar as you have consented to the processing of personal data for specific purposes, the legality of this processing is based on your consent. A given consent can be revoked at any time. This also applies to the revocation of declarations of consent granted to us prior to the validity of the EU General Data Protection Regulation, i.e., before 25 May 2018. Please note that the revocation only works for the future and that any processing effected up to that time remains unaffected.

4. Who gets my data?

Within DrinkStar GmbH, those entities gain access to your data, which need them to fulfill our contractual and legal obligations. Our service providers and vicarious agents may also receive data for these purposes if they comply with our written data protection directives. We may only disclose information about you if statutory provisions so dictate, if you have given your consent and/or if we have commissioned data processors in compliance with the provisions of the General Data Protection Regulation (GDPR).

5. Is data transmitted to a non-member country or an international organisation?

A transfer of data to offices in countries outside the EU or the EEA (so-called third or non-member countries) only takes place, insofar as this is necessary for the fulfillment of our contractual and legal obligations or required by law (e.g., tax reporting obligations), you have given us consent or as part of order data processing. If service providers are deployed in the non-member country, they are required to comply with the level of data protection in Europe in addition to the written instructions in the Agreement on EU standard contractual clauses.

6. How long will my data be stored?

We process and store your personal data as long as you are authorised to represent the respective legal entity to us. If the data is no longer required for the performance of contractual or legal obligations, it will be deleted on a regular basis, unless its temporary processing is necessary for the following purposes:
— To meet the requirements of commercial and tax retention periods: such, e.g., the Commercial Code, the Tax Code, the Money Laundering Act or the Securities Trading Act. The deadlines for retention and/or documentation periods are two to ten years.
— Preservation of evidence under the statute of limitations. According to §§195 ff. of the German Civil Code (BGB), these limitation periods can be up to 30 years, whereby the regular limitation period is three years.

7. What data protection rights do I have?

Each data subject has the right to access under Article 15 of the GDPR, the right to rectification under Article 16 GDPR, the right to erasure under Article 17 GDPR, the right to restriction of processing under Article 18 GDPR, the right to object under Article 21 GDPR and the right to data portability under Article 20 GDPR. With regard to the right to access and the right to erasure, the restrictions under §§ 34 and 35 Federal Data Protection Act apply. In addition, there is a right to lodge a complaint with a supervisory authority (Article 77 GDPR in conjunction with § 19 Federal Data Protection Act). You may revoke your consent to the processing of personal data granted to us at any time. This also applies to the revocation of declarations of consent granted to us prior to the validity of the General Data Protection Regulation, i.e., before 25 May 2018. Please note that the revocation only works for the future. Processing that occurred before the revocation shall remain unaffected.

8. Am I obliged to provide data?

In the context of our business relationship with the legal entity you represent to us, you must provide us with the personal data necessary for the assumption and execution of a representation/authorisation and the fulfillment of the associated contractual obligations or for the collection of which we are legally obliged. Without this data, we generally have to reject you as the person with the power of representation/authorised representative of the company or cancel an existing authorisation to represent. In particular, according to the money laundering regulations, we are obliged to identify you prior to the establishment of the right to represent or authorise, for example, on the basis of your identity card. In order for us to comply with this legal obligation, you must provide us with the necessary information and documents and immediately notify us of any changes resulting from the business relationship. If you do not provide us with the necessary information and documents, we must not institute or continue the right of representation/authorisation requested by the respective legal entity.