

GENERAL TERMS AND CONDITIONS OF GEMELLii Drinks GmbH BUSINESS VIS-À-VIS CONSUMERS – B2C

§ 1 General; Scope of Application of the GTC

(1) The following General Terms and Conditions ("**GTC**") apply under exclusion of other general terms and conditions to the business relationship between the GEMELLii Drinks GmbH and the respective contractual partner acting as a consumer within the meaning of Section 13 of the German Civil Code (*Bürgerliches Gesetzbuch*) ("**Customer**"), including the contractual relationships on the basis of orders placed by the Customer in the online shop of GEMELLii Drinks GmbH.

(2) The version valid at the time of a contract being concluded shall apply.

(3) Rights to which GEMELLii Drinks GmbH is entitled pursuant to statutory provisions beyond these GTC remain unaffected.

§ 2 Conclusion of Contract; Order Process

(1) Contracts between GEMELLii Drinks GmbH and its Customers are concluded via the online shop of GEMELLii Drinks GmbH. To place orders Customers can either register as such or place a guest order.

(2) The presentation of the product range on the website of GEMELLii Drinks GmbH does not constitute a legal sales offer, but merely serves as the basis for the submission of a binding offer by the Customer (*invitatio ad offerendum*). By posting an order by clicking the "Buy" button, the potential Customer submits to GEMELLii Drinks GmbH a binding offer to conclude a purchase contract. If credit card is chosen as means of payment, the purchase contract is being concluded within two business days from submission of the offer by GEMELLii Drinks GmbH sending an e-mail order confirmation or dispatch notification with regard to the respective ordered item to the Customer. If the Customer has not received an e-mail order confirmation or a notification of dispatch of the respective ordered item within two business days, the Customer is no longer bound to his offer and will be reimbursed immediately for any payments already made, unless it explicitly maintains its offer. If

Sofortüberweisung, PayPal, Apple Pay or Google Pay is chosen as payment method, the purchase contract is already concluded at the time of the confirmation of the payment order to the respective payment method provider by the Customer. If direct debit (*Lastschrift*) is chosen as payment method, the Customer will receive a pre-notification regarding the exact time and amount of the debit at least two business days prior to the SEPA direct debit being executed by the payment service provider Klarna (as defined in § 5 para. 2). In this case, the purchase agreement is concluded either by sending the advance information notification, by an e-mail order confirmation or by GEMELLii Drinks GmbH notifying the Customer that the respective ordered item has been dispatched. The condition for an effective conclusion of a purchase contract is always that the order process is completed by the Customer submitting the order. Should information on the product range have been incorrect, GEMELLii Drinks GmbH will submit a counter-offer to the Customer acceptance of which the Customer can freely decide on. Should GEMELLii Drinks GmbH not accept an order, it will inform the potential Customer of this by e-mail.

§ 3 Revocation Instruction (*Widerrufsbelehrung*)

(1) Right of revocation

The Customer is entitled to revoke the contract concluded with GEMELLii Drinks GmbH within fourteen days without stating reasons.

(2) Exercise of the right of revocation

The right of revocation is exercised by informing GEMELLii Drinks GmbH of the decision to revoke the contract by means of an unambiguous declaration (e.g. by letter or e-mail). The right of revocation can be exercised by the Customer, for example, by using this [Sample Revocation Form](#).

(3) Revocation period

The revocation must be exercised within fourteen days after the date on which the Customer or a third party authorised by the Customer, other than the carrier, took possession of the goods. The revocation period is being observed if the notice of revocation is sent prior to expiry of the period.

(4) Consequences of the revocation

If the contract has been revoked, GEMELLii Drinks GmbH shall reimburse to the Customer all payments, including delivery costs (with the exception of costs incurred because the Customer has not chosen the standard delivery of GEMELLii Drinks GmbH), within fourteen days from the date of receipt of the notice of revocation. The same means of payment used for the payment of the purchase price shall be used for the execution of the refund. GEMELLii Drinks GmbH is entitled to refuse the refund until it has received the goods, unless the Customer provides evidence of the return of the goods. The goods must be returned or handed over no later than fourteen days after GEMELLii Drinks GmbH has received the declaration of revocation. GEMELLii Drinks GmbH shall bear the costs of returning the goods. However, the Customer is hereby contractually obliged to bear the regular costs of returning the goods if, in the case of exercising the statutory right of revocation, the price of the goods to be returned does not exceed an amount of EUR 40.00 or if, in the case of a higher price of the goods, the Customer has not yet paid the consideration or a partial payment at the time of revocation, unless the goods delivered do not correspond to those ordered. Loss of value shall be compensated only if it is the result of a handling not necessary for the examination of the condition, characteristics and function mode of the goods. In the case of the return of goods, the Customer is asked to return them to GEMELLii Drinks GmbH in the original packaging including all accessories and with all packaging components, if possible. If the Customer is not in possession of the original packaging anymore, the goods shall necessarily be returned in a suitable packaging that sufficiently protects the goods from transport damage. However, compliance with this provision is not a prerequisite for the effective exercise of the right of revocation.

(5) Exclusion of the right of revocation

The above provisions on the right of revocation shall only apply if the relevant contract is concluded between GEMELLii Drinks GmbH and a consumer within the meaning of Section 13 of the German Civil Code. For the sake of clarification, this means that the contract was concluded by the Customer for purposes which can predominantly neither be attributed to his commercial nor his self-employed professional activity.

However, according to Section 312g para. 2 of the German Civil Code, a right of revocation does not exist in case of delivery of goods which are not prefabricated and for the manufacture of which the individual selection or instruction of the Customer is determinant or which are clearly tailored to personal needs (e.g. special labelling of the bottle).

§ 4 Prices; Shipping Costs; Return Costs

(1) The prices are inclusive of the statutory value added tax and apply exclusively to orders placed by Customers within Germany via the online shop of GEMELLii Drinks GmbH. The prices valid at the time of the order and shown in the online shop apply.

(2) The shipping costs to be borne by the Customer are based on the respectively current information in the online shop of GEMELLii Drinks GmbH at the time of the order.

(3) The obligation to assume possible return costs in the event of a consumer revocation is governed by section 3 para. 4.

§ 5 Means of Payment; Set-off and Right of Retention; Repayment; Default in Payment

(1) Payments can be made by Sofortüberweisung, direct debit (*Lastschrift*), credit card, PayPal, Apple Pay or Google Pay. The purchase price is due immediately upon conclusion of the purchase contract.

(2) The payment option direct debit (*Lastschrift*) is offered in cooperation with Klarna Bank AB (publ), Sveavägen 46, 111 34 Stockholm, Sweden ("**Klarna**"). The payment is made directly to Klarna. The use of the payment option direct debit (*Lastschrift*) is subject to a positive credit assessment (*Bonitätsprüfung*). Further information and Klarna's terms of use are available at <https://www.klarna.com/de/agb/>. General information about Klarna is available at <https://www.klarna.com/de/>. The Customer's personal data will be handled by Klarna in accordance with the applicable data protection regulations and in accordance with Klarna's data protection regulations.

(3) If payment is made by means of a payment method offered by PayPal, payment shall be processed via the payment service provider PayPal in accordance with the PayPal Terms of Use, available at

<https://www.paypal.com/de/webapps/mpp/ua/useragreement-full> or – if the customer does not have a PayPal account – in accordance with the terms for payments without a PayPal account, available at <https://www.paypal.com/de/webapps/mpp/ua/privacywax-full>.

(4) The Customer is only entitled to set-off if the counterclaim is undisputed or has been finally adjudicated. The Customer is only entitled to assert a right of retention to the extent that the counterclaim is based on the same contractual relationship.

(5) To the extent that repayment of the purchase price by GEMELLii Drinks GmbH to the Customer becomes necessary, reimbursement shall be made via the original payment method.

(6) If the Customer is in default with his payment, GEMELLii Drinks GmbH shall be entitled to claim interest in an amount of 5 percentage points above the base interest rate p.a. from the point in time the default occurs. GEMELLii Drinks GmbH reserves the right to prove a higher damage.

§ 6 Delivery; Cessation of Delivery Obligation; Partial Delivery

(1) Delivery shall be effected as soon as the goods have been fully paid for.

(2) Orders and deliveries are currently only possible within Germany.

(3) Unless otherwise expressly agreed, delivery shall be made from the warehouse of GEMELLii Drinks GmbH to the delivery address specified by the Customer.

(4) The delivery time usually is five to ten business days after receipt of the order or, in case of advance payment, after receipt of payment.

(5) The obligation to deliver lapses if GEMELLii Drinks GmbH is not supplied correctly and timely and is not responsible for the lack of availability. If GEMELLii Drinks GmbH is not able to deliver the ordered goods due to a lack of availability, the Customer will be informed thereof immediately and any advance payment will be refunded. In this case GEMELLii Drinks GmbH can withdraw from the purchase contract. The statutory claims of the Customer remain unaffected by this.

(6) Partial deliveries are only permissible if the partial delivery can be used by the Customer within the scope of the contractual purpose, the delivery of the

remaining ordered goods is ensured and no additional costs are incurred by the Customer thereby.

§ 7 Quality of the Goods

(1) The purchased items shall be of the agreed quality upon transfer of risk. This shall be determined exclusively on basis of the specific agreements concluded between the GEMELLii Drinks GmbH and the Customer regarding the characteristics, features and performance characteristics of the purchased items.

(2) Information on the website and in other information material by GEMELLii Drinks GmbH, including information describing the product, are not to be understood as guarantees for a special quality of the purchased items.

(3) GEMELLii Drinks GmbH reserves the right to slightly change to a customary extent the purchased items with regard to composition and ingredients of the beverage as well as the shape, material and/or design of the bottle, provided that this does not change the agreed quality. Insignificant deviations in the consistency and colour of the beverage as well as in the colour and appearance of the bottle from the agreed quality are reserved insofar as these are in the nature of the used ingredients and materials and customary.

§ 8 Transfer of Risk; Acceptance; Default in Acceptance

(1) The risk of accidental loss and accidental deterioration of the goods shall pass to the Customer at the latest upon delivery (*Übergabe*). In the case of sales shipment (*Versendungskauf*), however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the Customer upon delivery of the goods to the forwarding agent, carrier or other person or institution designated to carry out the shipment.

(2) If an acceptance (*Abnahme*) has been agreed, it shall be decisive for the transfer of risk. Also for the rest, the statutory provisions of the law governing contracts for work and services (*Werkvertragsrecht*) shall also apply *mutatis mutandis* to an agreed acceptance. Delivery or acceptance shall be deemed to have taken place if the Customer is in default of acceptance.

(3) If the Customer is in default of acceptance, if it fails to cooperate or if the delivery is delayed for other reasons for which the Customer is responsible,

GEMELLii Drinks GmbH is entitled to claim compensation from the Customer for the resulting damage including additional expenses (e.g. storage costs, costs of repeated delivery).

§ 9 Retention of Title (*Eigentumsvorbehalt*)

(1) Ownership of the delivered goods shall remain with GEMELLii Drinks GmbH until the purchase price has been finally and fully paid.

(2) The Customer is not entitled to consume, pledge, assign by way of security, process or restructure the goods subject to retention of title prior to the transfer of ownership.

(3) In the event of seizures or other interventions by third parties into the reserved goods, the Customer must immediately notify GEMELLii Drinks GmbH in writing so that the latter has the opportunity to file a third-party action against execution pursuant to Section 771 of the German Code of Civil Procedure (*Zivilprozessordnung*).

§ 10 Warranty for Material Defects; Guarantee

(1) The warranty for material defects shall be governed by the statutory provisions, in particular Sections 434 et seqq. of the German Civil Code.

(2) An additional guarantee with regard to the goods delivered by GEMELLii Drinks GmbH only exists if it is expressly granted in the order confirmation of the respective item.

§ 11 Liability

(1) Claims of the Customer against GEMELLii Drinks GmbH for damages are excluded. This does not apply to claims for damages of the Customer due to injury of life, body, health or due to the violation of essential contractual obligations (*Kardinalpflichten*) as well as liability for other damages due to an intentional or grossly negligent breach of duty by GEMELLii Drinks GmbH, its legal representatives or vicarious agents (*Erfüllungsgehilfen*). Essential contractual obligations are those, which fulfilment is necessary to achieve the objective of the contract.

(2) In case of a breach of essential contractual obligations GEMELLii Drinks GmbH shall only be liable for the foreseeable damage typical

for the contract if it was caused by simple negligence, unless the Customer's damage claims are due to injury of life, body or health.

(3) The restrictions in para. 1 and 2 shall also apply in favour of the legal representatives and vicarious agents of GEMELLii Drinks GmbH if claims are asserted directly against them.

(4) The limitations of liability resulting from para. 1 and 2 shall not apply to the extent GEMELLii Drinks GmbH fraudulently concealed the defect or granted a guarantee for the quality of the item. The same applies to the extent GEMELLii Drinks GmbH and the Customer have concluded an agreement regarding the quality of the item. The provisions of the German Product Liability Act (*Produkthaftungsgesetz*) shall remain unaffected.

§ 12 Data Protection

GEMELLii Drinks GmbH takes the protection of its Customers' data very seriously. The data protection declaration of GEMELLii Drinks GmbH is available [here](#).

§ 13 Customer Service

If you have any questions, please do not hesitate to contact our customer service at any time. It can be reached by e-mail to kundenservice@GEMELLii.com or by telephone at +49 (0)6109 500 32020.

§ 14 No Alternative Dispute Resolution

The European Commission provides a platform for Online Dispute Resolution (OS), which can be found at <http://ec.europa.eu/consumers/odr/>. In principle, consumers have the possibility to use this platform to settle their disputes. GEMELLii Drinks GmbH is not obliged and not willing to participate in a dispute resolution procedure before a consumer arbitration board.

§ 15 Written Form

Amendments and supplements to these GTC as well as any individual contractual deviations from these GTC must be made in writing.

§ 16 Our Identity

GEMELLii Drinks GmbH, Hinter den Obergärten 36, 60388 Frankfurt am Main.

§ 17 Applicable Law

(1) The law of the Federal Republic of Germany shall apply to contracts between GEMELLii Drinks GmbH and the Customer under exclusion of the UN Convention on Contracts for the International Sale of Goods.

(2) The statutory provisions limiting the choice of law and the applicability of mandatory provisions, in particular of the state in which the Customer has its habitual residence as a consumer, shall remain unaffected.

§ 18 Severability Clause

(1) Should individual provisions of these GTC be or become legally void, the remaining provisions shall remain valid.

(2) The ineffective provisions shall be replaced by the respective statutory provisions, insofar as existent.

§ 19 Miscellaneous

This English language version of the GTC of GEMELLii Drinks GmbH is just a translation of the original German language version for the convenience of the Customer. In any case of discrepancy between both versions the German language version as well as any references to German law terms shall prevail.