

General Terms of Purchase (AEB) of Häcker Küchen GmbH & Co. KG

Preamble

The basis of a permanent and enduring business relationship is not Terms of Purchase, but a committed cooperation and mutual trust. Nevertheless, we cannot avoid regulating several points for all business with our customers in our Terms of Purchase below in deviation or as a supplement to the statutory provisions.

§ 1 General information, scope

- (1) These General Terms of Purchase (AEB) shall apply to all business relationships with our business partners and suppliers (hereinafter: "Contractual partners") insofar as the Contractual partners concern entrepreneurs (§ 14 BGB [German Civil Code]), legal entities under public law or special assets under public law.
- (2) The AEB shall in particular apply to contracts concerning the sale and/or the delivery of movable objects (hereinafter also: goods) irrespective of whether the Contractual Partner produces the goods itself or purchases these from component suppliers (§§ 433, 651 BGB). The AEB shall also apply in their respective version as a framework agreement for future contracts concerning the sales and/or the delivery of movable objects with the same Contractual partner without us having to point these out again in each individual case.
- (3) These AEB shall apply exclusively. Deviating, contradictory or supplementary General Business Terms of the Contractual partner will only then and accordingly become a part of the contract to the extent that we have explicitly approved their validity in writing. This approval requirement shall always apply and without exception, for example also if we accept its deliveries without reservation in the knowledge of the General Business Terms of the Contractual partner.
- (4) Individual agreements reached with the Contractual partner in an individual case (including collateral agreements, addendums and amendments) shall have precedence over these AEB in each case. A written contract or our written confirmation shall be decisive for the contents of such agreements.
- (5) Legally relevant declarations and reports, which are to be submitted towards us by the Contractual partner after the conclusion of the contract (e.g. setting of deadlines, reminders, declarations of cancellation), require a written form in order to be valid.
- (6) References to the validity of statutory regulations shall be for the purposes of clarification only. Therefore, the statutory regulations shall also apply without such a clarification insofar as they are not changed or explicitly excluded in these AEB.

§ 2 Conclusion of contract

- (1) Orders shall only be deemed as binding in case of a written submission/confirmation by us. The Contractual partner has to inform us of obvious errors (e.g. typing/calculation errors) and incompleteness of the order including the order documents – for the purpose of correction or completion – before acceptance; otherwise the contract shall be deemed as not concluded.
- (2) The Contractual partner is required to confirm our order in writing within two weeks or to carry it out by delivery of the goods without reservation (acceptance). A delayed acceptance shall be deemed as a new offer and requires the acceptance by us.

§ 3 Delivery time and delay in delivery

- (1) The delivery time stated by us in the order is binding. If the delivery time is not stated in the order and was not agreed otherwise either, it is 4 weeks from the conclusion of the contract. The Contractual partner undertakes to inform us immediately in writing if it is expected that it cannot adhere to agreed delivery times – no matter for what reasons.
- (2) If the Contractual partner does not provide its service or not within the agreed delivery time or if it is in default then our rights – in particular to cancellation and damages – shall be determined according to the statutory regulations. The regulations in Par. 3 shall remain unaffected.
- (3) If the Contractual partner is in default we can request a contractual penalty in the amount of 1.25 % of the net price per completed calendar week, in total however no more than 5 % of the net price of the goods which are delivered late. We are entitled to request the contractual penalty in addition to the fulfillment and as a minimum amount of damages owed by the Seller according to the statutory regulations; the assertion of further damages remains unaffected. If we accept the delayed service we will assert the contractual penalty by no later than with the final payment.

§ 4 Service, delivery, passing of risk, delay in acceptance

- (1) The Contractual partner is not entitled to have the service owed by it provided by third parties (e.g. subcontractors) without our prior written consent. It shall bear the procurement risk for its services unless it concerns an individual production.
- (2) The delivery shall be carried out "free house" within Germany at the place stated in the order. If the place of destination is not stated and has not been agreed otherwise then the delivery has to be carried out at our registered seat in Rödighausen. The respective place of destination is also the place of performance (obligation to deliver).
- (3) A delivery note is to be enclosed with the delivery by stating the supplier and delivery note number, date (issue and shipment), contents of the delivery (Häcker article number and quantity), our order code (date and number) as well as the place of delivery. If the delivery note is missing or if it is incomplete then we shall not be responsible for thus resulting delays in the processing and payment.
- (4) The risk of the accidental loss and the accidental deterioration to the object shall pass to us with the hand-over at the place of performance. Insofar as an acceptance is agreed this is decisive for the passing of risk. The statutory regulations of the law governing contracts for work and services shall also incidentally apply in case of an acceptance. It is deemed equivalent to the hand-over or acceptance if we are in default of acceptance.
- (5) The statutory regulations shall apply to the occurrence of our default of acceptance. The Contractual partner must however also explicitly offer its service if a certain or definable calendar time has been agreed for an act or assistance on our part. If we are in default of acceptance then the contractual partner can request reimbursement of its additional expenses according to the statutory regulations (§ 304 BGB [German Civil Code]). If the contract relates to an untenable object that it is to be produced by the Contractual partner (individual production) then the Contractual partner shall only be entitled to further rights if we have undertaken to provide assistance and are responsible for the failure to provide assistance.
- (6) The Contractual partner is not entitled to partial deliveries without our prior written consent.

§ 5 Prices and terms of payment

- (1) The order is carried out at the prices respectively deposited in our database (list price). The Contractual partner can request information about the currently deposited prices at all times. Should no list price exist in an exceptional case the price stated in the order shall apply.
- (2) Insofar as not otherwise agreed in an individual case the price shall include all services and secondary services of the Contractual partner as well as all secondary costs (e.g. proper packaging, customs duties, transport costs including possible transport and liability insurance). In case of doubt all prices shall be deemed including the applicable rate of value added tax. The Contractual partner has to take packaging material back at our request.
- (3) The agreed price is due and payable within 90 calendar days from the full delivery and service (including an applicable agreed acceptance) as well as receipt of a proper invoice. If we make the payment within 45 calendar days after the occurrence of the afore-mentioned conditions the Contractual partner shall grant us 5% cash discount on the net amount of the invoice.
- (4) We do not owe any maturity interest. The Contractual partner's claim for payment of interest on default shall remain unaffected, the interest on default is 5 percentage points above the base lending rate per annum. The statutory regulations shall apply to the occurrence of our default. In any case however a written reminder by the Contractual partner is necessary.
- (5) Insofar as proof/certificates are to be submitted concerning conducted material tests and/or quality controls, this concerns an essential contractual obligation. The proof/certificates are to be sent with the execution of the delivery. Payment and cash discount deadlines shall not begin to apply before the receipt of the proof/certificates.
- (6) The payment by us does not represent any acknowledgement of the goods as per contract or a waiver of the assertion of possible rights, in particular no waiver of the assertion of warranty claims and/or claims for damages.
- (7) We shall be entitled to rights to offset and of retention as well as the plea of the unfulfilled contract in the statutory extent. We are in particular entitled to withhold due payments as long as we are still entitled to claims from incomplete or faulty services against the Contractual partner.
- (8) The Contractual partner shall only have a right to offset or of retention owing to counter-claims which have been determined final and binding or undisputed counter-claims

§ 6 Non-disclosure obligation and reservation of title

- (1) We reserve property rights and copyrights to diagrams, plans, drawings, calculations, execution instructions, product specifications and other documents. Such documents are exclusively to be used for the contractual service and to be returned to us after the settlement of the contract. The documents are to be kept secret towards third parties also after termination of the contract. The non-disclosure obligation shall only lapse if and insofar as the knowledge contained in the provided documents has become general knowledge.
- (2) The afore-mentioned provision shall apply accordingly to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other objects, which we provide to the Contractual partner for the production. Such objects are – as long as they are not processed – to be stored separately at the costs of the Contractual partner and to be insured against destruction and loss to the customary extent.
- (3) A processing, mixing or connection of provided objects by the Contractual partner is carried out for us.
- (4) If their property right continues to exist in case of a processing, mixing or connection with objects of third parties then we shall acquire co-ownership to the new object in the ratio of the value of our provided object to the other objects.
- (5) The assignment of the goods to us shall be carried out unconditionally and irrespective of the payment of the agreed price. Excluded are in any case all forms of the expanded or extended reservation of title so that a reservation of title if applicable effectively declared by the Contractual partner shall only apply until the payment of the goods delivered to us and only to these goods.
- (6) Insofar as we do not merely provide objects/materials (goods) in an individual case, but sell these to our Contractual partner, the sale shall be carried out under the reservation of title according to the following provisions:
 - a) We reserve the property to the delivered goods until the full payment of all of our current and future claims from this contract and the ongoing business relationship.
 - b) The goods subject to reservation of title may neither be pledged to third parties, nor assigned as collateral before the full payment of the secured claims. The Contractual partner has to inform us immediately in writing if accesses of third parties are accordingly threatened or carried out to the goods which belong to us.
 - c) In case of conduct of the Contractual partner in breach of the contract, in particular with the non-payment of the due purchase price we are entitled to cancel the contract according to the statutory regulations and to request that the goods are handed over owing to the reservation of title and the cancellation. If the Contractual partner does not pay the due purchase price, we may only assert these rights if a reasonable deadline has been previously and unsuccessfully set to the Contractual partner for payment or the setting of such a deadline is indispensable according to the statutory regulations.
 - d) The Contractual partner is authorized to resell and/or to further process the goods subject to a reservation of title in the proper course of business. In this case the following regulations shall apply in addition.

- aa) The reservation of title covers the products produced by processing, mixing or connection of our goods at their full value whereby we are deemed traders. If with the processing, mixing or connection with goods of third parties their property right continues to exist then we shall acquire the co-ownership in the ratio of the invoice values of the processed, mixed or connected goods. Incidentally, the same shall apply to the produced product as to the goods delivered under the reservation of title.
- bb) The Contractual partner hereby now already assigns the claims against third parties established from the resale of the goods or the product to us for security in total or in the amount of our possible co-ownership share according to the afore-mentioned paragraph. We hereby accept the assignment. The afore-mentioned obligations of the Contractual partner shall also apply in view of the assigned claims.
- cc) The Contractual partner shall remain authorized to collect the claim in addition to us. We undertake not to collect the claim as long as the Contractual partner satisfies its payment obligations towards us, is not in default of payment, no application has been filed for the opening of insolvency proceedings and there is no other deficiency with regard to its efficiency. However, if this is the case then we can request that the Contractual partner informs us of the assigned claims and their debtors, provides all details which are necessary for the collection, hands over the associated documents and informs the debtor (third party) of the assignment.
- dd) If the realisable value of the securities exceeds our claims by more than 10% we will release securities at our choice at the request of the Contractual partner.

§ 7 Faulty delivery

- (1) The statutory regulations shall apply to our rights in case of defects of quality and title to the goods (including false and shortfall in delivery as well as improper assembly, faulty assembly, operating manuals or instructions) and with other breaches of duty by Contractual partners insofar as not otherwise determined below.
- (2) According to the statutory regulations the Contractual partner shall in particular be liable for the fact that the goods have the agreed condition when the risk is passed to us. Deemed as an agreement on the condition is any case those product specifications, which – in particular by designation or reference in our order – are the object of the respective contract or, in the same manner as these AEB, were included in the contract. It makes no difference here whether the product specification stems from us, from the Contractual partner or from the manufacturer.
- (3) The Contractual partner guarantees that all goods delivered by it comply with the respective state-of-the-art technology and are in line with the applicable German and EU law (Directives, Regulations, etc.), in particular the product liability law. The guarantee equally covers the legal regulations of those states, with which the goods come into contact as intended – recognisably for the Contractual partner.
- (4) The Contractual partner further guarantees that the goods and their use as intended do not infringe any industrial property rights/rights of use of third parties.
- (5) Notwithstanding § 442 Par. 1 S. 2 BGB we shall also be entitled to claims for defects if we were not aware of the defect upon conclusion of the contract as a result of gross negligence.
- (6) The statutory regulations (§§ 377, 381 HGB) shall apply to the commercial obligation for examination and to report defects, with the following condition: Our obligation for examination is limited to defects, which are determined during our incoming goods control under the external appraisal including the delivery documents as well as with our quality control in the random sample procedure (e.g. damages in transit, false and shortfall in delivery). There is no obligation for examination if an acceptance has been agreed. Incidentally, it depends on what extent an examination is useful by taking the circumstances of the individual case into consideration according to the proper course of business. Our obligation to report subsequently discovered defects shall remain unaffected. In all cases our report (report of defects) shall be deemed as immediately and in time if it is sent within 7 workdays after the proper examination or (with hidden defects) after the discovery of the defect.
- (7) The costs spent by the Contractual partner for the purpose of testing and subsequent improvement shall also be borne by the said Contractual partner if it is determined that there was actually no defect. Our liability for damages in case of unjustified requests for the remedy of defects shall remain unaffected; however we shall accordingly only be liable if we have recognised or not recognised due to gross negligence that there was no defect.
- (8) If the Contractual partner does not satisfy its obligation for the subsequent satisfaction – at our choice by remedy of the defect (subsequent improvement) or by the delivery of a faultless object (substitute delivery) – within a reasonable deadline set by us, then we can remedy the defect ourselves and request reimbursement of the expenses, which are necessary for this purpose, or a corresponding advance payment from the Contractual partner. If the subsequent satisfaction by the Contractual partner has failed or is deemed unreasonable for us (e.g. owing to special urgency, danger to the operational safety or the impending occurrence of a disproportionate amount of damages) it is not necessary to set a deadline; the Contractual partner is to be informed immediately, if possible in advance.
- (9) Incidentally, in case of a defect of quality or title we are entitled to reduce the purchase price or to cancel the contract according to the statutory regulations. In addition, we are entitled to compensation for damages and reimbursement of expenses according to the statutory regulations.

§ 8 Special quality conditions

- (1) In addition to the applicable legal regulations the Contractual partner undertakes to also comply with the respective current stipulations and guidelines of the associations AMK "The Modern Kitchen Working Group" and EFM "European Association of Foilwrapped Furniture Doors Manufacturers". The compliance with these stipulations and guidelines is guaranteed and ensured by regular quality controls in the production process as well as an obligatory end control.
- (2) The Contractual partner further guarantees the compliance with all respective current statutory stipulations (threshold values, etc.) from the fields of environment and health – albeit German or EU stipulations. Suitable proof, documentation (e.g. expert's opinions) are to be submitted at our request; the costs for the proof, documentation shall be borne by the Contractual partner.
- (3) If we receive indications of possible defects, for example within the framework of our quality control in the random sample procedure, we are entitled to subject all delivered goods, which could theoretically be encumbered with the defect to a comprehensive examination. All own and/or third party costs, actually incurred in connection with this examination, shall be borne by the Contractual partner – irrespective of the results of the examination. The right is explicitly reserved to assert further (statutory and/or contractual) claims.
- (4) With the delivery of hazardous substances the Contractual partner will guarantee the proper transport according to the statutory provisions. A full safety datasheet is to be sent before the delivery for the first time (as well as with each later change).
- (5) The Contractual partner undertakes to grant us the right to access to its business/operating premises in connection with previously announced quality and environmental audits and to provide all necessary information.
- (6) Suitable proof concerning the material tests and/or quality controls carried out at the Contractual partner is to be submitted immediately at our request.

§ 9 Recourse to suppliers

- (1) We are entitled to the claims for recourse determined by law within a supply chain (recourse to suppliers according to §§ 478, 479 BGB) to an unlimited extent in addition to the claims for defects. We are in particular entitled to request precisely the type of subsequent satisfaction (subsequent improvement or substitute delivery) from the Contractual partner, which we owe our buyer in an individual case. Our statutory option (§ 439 Par. 1 BGB) is not limited hereby.
- (2) Before we recognise or satisfy a claim for defects asserted by our buyer (including reimbursement of expenses according to §§ 478 Par. 3, 439 Par. 2 BGB) we will inform the Contractual partner and request a written statement. If the statement is not given within a reasonable deadline and if not mutual solution is obtained either then the claim for defects actually granted by us shall be deemed as owed to our buyer; in this case the Contractual partner shall be responsible for proving the contrary.
- (3) Our claims from recourse to suppliers shall also apply if the goods were further processed by us or one of our buyers, e.g. by installation into another product before their sale to a consumer.

§ 10 Producer liability

- (1) If the Contractual partner is responsible for a product damage, it has to indemnify us from all claims of third parties to the extent that the cause lies in its scope of control and/or organisation and it is personally liable in the external relationship.
- (2) Within the framework of its indemnification obligation the Contractual partner has to reimburse expenses according to §§ 683, 670 BGB, which arise from or in connection with the assertion of a claim by third parties including recall actions carried out by us. We will inform the Contractual partner about the contents and scope of recall measures – insofar as possible and deemed reasonable – and give it the opportunity to make a statement. Further statutory claims shall remain unaffected.
- (3) The Contractual partner has to conclude and maintain product liability insurance with a flat rate sum insured of at least EUR 10 million per physical injuries/property damages.

§ 11 Statute-of-limitations

- (1) The reciprocal claims of the contractual parties shall become statute-barred according to the statutory regulations insofar as not otherwise determined below.
- (2) Notwithstanding § 438 Par. 1 No. 3 BGB the general statute-of-limitations for claims for defects is 5 years. The 5-year statute-of-limitations shall also apply accordingly to claims from defects of title, whereby the legal statute-of-limitations for in rem hand-over claims of third parties (§ 438 Par. 1 No. 1 BGB) shall remain unaffected; Claims from defects of title shall additionally not become statute-barred in any case as long as the third party can assert the right – in particular in the absence of statute-of-limitations – against us still.
- (3) The statutes-of-limitations of purchase law including the afore-mentioned extension shall apply – in the statutory extent – to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages owing to a defect, the regular legal statute-of-limitations shall apply hereto (§§ 195, 199 BGB) if the application of the statutes-of-limitations of purchase law does not lead to a longer statute-of-limitation in an individual case.

§ 12 Choice of law and place of jurisdiction

- (1) The law of the Federal Republic of Germany shall apply to these AEB and all legal relations between us and the Contractual partner under the exclusion of all international and supranational (contractual) legal systems, in particular the UN Convention on Contracts for the International Sale of Goods. The pre-requisites and effects of the reservation of title are subject to the law at the respective storage location of the object insofar as according to this law the choice of law made is inadmissible or invalid for the benefit of German law.
- (2) If the Contractual partner is a merchant within the meaning of the HGB, legal entity under public law or special assets under public law – also international – place of jurisdiction will be exclusively determined for all disputes ensuing from the contractual relationship by our registered seat in Rödighausen. We are however also entitled to file an action at the place of performance of the delivery obligation or at the registered seat of the Contractual partner.