

Terms and Conditions of Sale and Delivery of Häcker Küchen GmbH & Co. KG

Preamble

The basis of a lasting business relationship is not the general terms and conditions, but rather committed co-operation and mutual trust. Nevertheless, we cannot avoid regulating certain points below in our Terms and Conditions of Sale and Delivery differently or in addition to the legal provisions, for all transactions with our customers.

§1 General - Scope of application

(1) These General Terms and Conditions of Sale and Delivery (GTC) apply for all of our business relationships with our customers (hereinafter: "Purchaser") when the Purchaser is an entrepreneur within the meaning of Section 14 German Civil Code (BGB), a legal person under public law, or a special fund under public law. The GTC are accepted by the placing of an order or acceptance of the delivery.

- The GTC particularly apply to contracts for the sale and/or supply of moveable goods (hereinafter also: "goods"), regardless of whether we produce the goods ourselves or purchase these from other suppliers (Sections 433, 651 BGB). The GTC also apply in their respective version as a framework agreement for future contracts for the sale and/or delivery of moveable goods with the same Purchaser, without our having to refer to them again in each individual case; should there be changes to our GTC, we shall inform the Purchaser of these immediately.
- Our GTC apply exclusively. Any differing, contradictory or supplementary general terms and conditions from the Purchaser shall form part of the contract only and to the extent that we have expressly approved their validity. This requirement for approval applies in all cases, for example, even if we make a delivery to the Purchaser without reservation and in full knowledge of the general terms and conditions of this Purchaser.
- Individual agreements reached with the Purchaser in specific cases (including ancillary agreements, addenda, and amendments) take precedence over these GTC in every case. The content of such agreements is determined by a written contract and/or our written confirmation.
- With the exception of Managing Directors or authorised representatives, our representatives and employees are not entitled to make agreements which deviate from these GTC.
- Any legally significant declarations and notices to be submitted to us by the Purchaser after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or price reduction) must be received in written form in order to be effective.

§2 Offers/Prices

- Our offers and price lists are non-binding. Samples, photos, designs, and files sent on request remain our property, and are to be surrendered to us on request. Our prices are calculated on the basis of the relevant labour and materials costs on publication of the price list.
- Should these fundamentals change, we reserve the right to charge the prices applicable on the day of delivery.
- The order of goods by the Purchaser is considered a binding contractual offer. Unless anything to the contrary is stated in the order, we are entitled to accept this contractual offer within 2 weeks of receipt by us.

§3 Order

- All orders are only deemed accepted when we have confirmed them in writing. This also applies for terms which have been agreed between our employees and the respective customers. Merely electronic confirmations (e.g. in EDI format) on receipt of electronic orders or contracts are not deemed to be acceptances. The order confirmation alone determines the content of the purchase agreement. On acceptance of the contract, the Purchaser's creditworthiness is assumed. Fulfilment of the purchase agreement can be made dependent on an advance payment or security when information we subsequently receive casts doubt on the customer's creditworthiness.
- The vendor reserves the right to make changes to the product which do not jeopardise the purpose of the agreement and are reasonable for the Purchaser, without prior notice.

§4 Dispatch

- The choice of transport route and means of transport is made, in the absence of special agreement or instruction, at our discretion. We thereby choose a generally suitable means of transport. The delivery is made at the Purchaser's risk, unless we provide transportation with our own vehicles and personnel, and the damage is not caused by third parties. The costs of the shipment are borne by the Purchaser.
- The Purchaser is to check the goods in accordance with Section 377 (2) German Commercial Code (HGB) immediately, at the latest within 5 working days, for transport damage, and to report the transport damage to us in writing within 5 days from delivery at the latest, whereby the date we receive the notification is decisive for its timeliness.
- Delayed notifications of transport damage are not considered. They do not give rise to an entitlement to compensation and/or rescission, to a reduction in price, or to a right of retention for the Purchaser.
- The same applies to the handover or approval if the Purchaser is in default as regards acceptance. Should the Purchaser fall into default of acceptance, neglect to perform an act of co-operation, or should our delivery be delayed due to other reasons for which the Purchaser is responsible, then we are entitled to demand compensation for the damages arising therefrom, including additional expenses (e.g. storage costs).

§5 Delivery dates

- Call orders must be accepted within four months from the date of the order confirmation when no other dates are specified.
- Once the acceptance period has expired, the Purchaser is in default of acceptance without a further demand for acceptance being necessary.
- All of our delivery periods begin with the date the order confirmation is sent. They are complied with when the goods have left our facility by the end of the delivery period, or the Purchaser has been notified that the goods are ready for dispatch.
- If fulfillment within the delivery period is wholly or partially prevented due to force majeure, strike, shortage of raw materials, or other circumstances for which we are not responsible, the delivery period extends by the duration of the obstruction.

§6 The vendor's liability for culpable breaches of duty

- The vendor's liability for a breach of duty, insofar as this does not consist of the delivery of a purchased item with material and/or legal defects, by the vendor itself or one of its vicarious agents within the meaning of Sections 280/281 BGB, is restricted to cases of gross negligence and intent.
- In the event of simple negligence, the vendor is not liable for its breaches of duty, or those of its vicarious agents.
- The above restriction of liability does not apply for damage from injury to life, limb, or health due to a breach of duty by the vendor or one of its vicarious agents.
- Moreover, the above restriction of liability does not apply for damage from a breach of essential contractual obligations (an obligation whose fulfillment makes proper implementation of the agreement possible in the first place, and on the fulfillment of which the other contracting party normally relies and may rely). In this case, however, our liability is limited to compensation of the foreseeable, typically-occurring losses.
- Insofar as the vendor's breach of duty lies in the vendor delivering late, the rules under Sections 6, 9, and 10 of these General Terms and Conditions apply.

§7 Limitation periods for breaches of duty

- The limitation period for the Purchaser's claims arising from a breach of duty by the vendor or one of its vicarious agents is one year. This limitation period begins with the day the goods are delivered.
- This restriction of the statutory limitation period does not apply for claims from injury to life, limb, or health.

§8 Default

Default occurs when we still have not performed our obligations under the agreement on expiry of a grace period of at least 4 weeks to be set by the Purchaser.

§9 Compensation and rescission on default

If we have not rendered our due service, or have not done so in accordance with the agreement, by expiry of the grace period to be extended, where applicable, under Section 8 (Default) of these Terms, and we are responsible for this fact, the Purchaser has the right, when we acted with gross negligence or intent, to claim compensation and/or declare rescission. In the event of simple negligence, the claim for compensation and the right of rescission are excluded.

§10 The Purchaser's rights and obligations in the event of material and legal defects in the purchase object

- Our goods are industrially manufactured. We endeavour, through constant improvement of the production methods and improvement of the quality controls, to improve the quality of our products. Nonetheless, small deviations in the dimensions and finishes or surfaces are unavoidable. Deviations from samples or showroom kitchens through changes or improvements in technical products are also conceivable. The deviations just described do not constitute material defects.
- We must receive notifications of defects for visible defects under Section 377 (2) HGB immediately, but at most 10 working days after delivery of the goods; for hidden defects at the latest 10 days from the date on which the defects are detectable. Clause IV of these Terms applies for transport damage. If the Purchaser breaches its obligation to give notice of defects promptly, it has no claims to compensation and rectification. Its right to rescission and a reduction in price lapses.
- The Purchaser may neither make use of nor repair the goods about which a complaint has been made. If the Purchaser breaches this duty to refrain, all of its claims arising from liability for material or legal defects, or from Sections 280 and 281 BGB due to the vendor's breach of duty, lapse.
- If the defective item is not returned in the event of a replacement delivery, an invoice is issued for the replacement delivery.
- It is not permissible to return goods complained about without our consent. These goods are not accepted, and are returned again at the Purchaser's expense.
- If we acknowledge the defect, the Purchaser has a right to rectification. We will repair the goods or provide a replacement delivery at our discretion.
- It is only once, after notification of defects has been given, and after a reasonable time period for rectification, the replacement delivery or repair has failed twice that the Purchaser has the right to rescind the purchase agreement or to reduce the purchase price.
- If the Purchaser chooses to rescind the agreement, it is not also entitled to a compensation claim due to the defect.
- To compensate for all expenses which the Purchaser has incurred as part of any rectification that becomes necessary in its contractual relationship with its customers (including consumers), a rebate of 5% off the list price

is included in the overall terms negotiated between it and us. This rebate settles all expenditure, e.g. incidentals, travel costs, assembly times, etc., without this being an exhaustive list. This provision applies regardless of whether we provide a free replacement or the Purchaser repairs slightly damaged parts on site.

- The Purchaser is not entitled to further claims due to material and legal defects in the purchase object unless the vendor acted fraudulently or gave guarantees.

- The Purchaser bears the full burden of proof in respect of all requirements for claims, in particular in respect of the defect itself, the time when the defect was identified, and the timeliness of notification of the defect.

§11 Other liability

- The vendor is liable for compensation - for whatever legal reason - as part of the fault-based liability for intent and gross negligence. In the event of simple negligence, the vendor is only liable subject to a more lenient standard of liability under the legal provisions (e.g. for diligence in personal affairs):
 - for losses arising from injury to life, limb or health;
 - for losses arising from the non-negligible breach of an essential contractual obligation (an obligation whose fulfillment makes proper implementation of the agreement possible in the first place, and on the fulfillment of which the other contracting party normally relies and may rely); in such cases, our liability is nonetheless limited to compensation for the foreseeable, typically-occurring damages.
- The limitations of liability arising from (1) also apply for breaches of duty by or for the benefit of persons for whose fault the vendor is responsible under the legal provisions. They do not apply insofar as the vendor fraudulently concealed a defect, or has accepted a guarantee for the quality of the goods, and for the Purchaser's claims under the German Product Liability Act (ProdHaftG).
- On the grounds of a violation of duty that does not arise from a defect, the Purchaser may only rescind or terminate the contract if the vendor is responsible for the breach of duty. A free right to termination for the Purchaser (particularly in accordance with Sections 651, 649 BGB) is excluded. Otherwise, the statutory provisions and legal consequences shall apply.

§12 Limitation periods for material and legal defects

- The Purchaser's claims due to material and legal defects become time-barred within a year. The limitation period begins on the day the purchase object is delivered.
- However, if the goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (construction material), the limitation period conforms to Section 438 (2) No. 2 BGB.
- The special legal rules for third party claims for surrender based on a right in rem (Section 438 (1) No. 1 BGB), in the event of the vendor's fraud (Section 438 (3) BGB), and for claims of recourse against suppliers in the event of final supply to a consumer (Section 479 BGB) also remain unaffected by the reduction of the limitation period under (1).
- The above limitation periods from sales law also apply for the Purchaser's contractual and non-contractual compensation claims relating to a defect in the goods, unless the application of the normal limitation period (Sections 195, 199 BGB) would lead to a shorter limitation period in the individual case. The limitation periods of the German Product Liability Act (ProdHaftG) remain unchanged in all cases. Otherwise, the statutory limitation periods apply exclusively for the Purchaser's compensation claims under Section 7. The limitation period does not begin to run anew due to the remedying of a defect or a new delivery.

§13 The Purchaser's recourse

- If the Purchaser must wholly or partially take back the purchase object from the consumer due to its defectiveness after failed rectification for which we are responsible, or if the consumer reduced the purchase price, and the Purchaser first fulfilled its immediate obligation to notify under Section 377 II HGB or Sections 5 and 11 of our Terms and Conditions of Sale and Delivery, the Purchaser's claim against the vendor due to liability for material and legal defects and breach of duty, and any claims due to compensation of expenditure which the vendor is to bear in relation to the consumer due to failed rectification, are limited to payment and at most 120% of the net purchase price from the contractual relationship between the Purchaser and the vendor concerning the purchase object wholly or partially returned by the consumer.
- The right of rescission is excluded.
- The liability for recourse is limited in any case to intent and gross negligence on the part of the vendor or its vicarious agents. This restriction does not apply for loss from injury to life, limb, or health, which the consumer claims.
- The Purchaser bears the full burden of proof in respect of all requirements for claims, in particular in respect of the defect itself, the time when the defect was identified, and the timeliness of notification of the defect.

§14 Right of retention, offsetting

It is not permissible for the Purchaser to set-off claims to which it is entitled under the purchase agreement itself or from the entire business relationship with the vendor, or to assert a right of retention in respect of the purchase price due to these claims, unless the Purchaser's claims are undisputed or established by law through settlement or judgment.

§15 Packaging

We do not take back our customary packaging.

§16 Payments

- The payments are due and have to be made in the manner evident from the order confirmation.
- Our representatives or sales agents are not entitled to collect payment. This only does not apply when they are authorised with an identification card we have issued specially for this purpose.
- Where the deadline for payment specified in the order confirmation is exceeded, default occurs without prior warning.
- Interest of 9 percentage points above the base interest rate of the European Central Bank is charged.
- Bills of exchange are only accepted after a prior written agreement with us, and also only as conditional payment without guarantee for protest subject to their being discountable. Charges for bills of exchange, including ancillary costs, are charged from the day the invoice amount is due.

§17 Due date of all claims independent of the content of the order confirmation

If the Purchaser falls into arrears with a payment by more than two weeks, or if something detrimental becomes known regarding its payment or creditworthiness, the entire purchase price outstanding at this time for all goods delivered to it, regardless of any contrary terms in the order confirmations, are due immediately in cash.

§18 Retention of title

- The delivered goods (reserved goods) remain our property until satisfaction of all claims to which we are entitled against the Purchaser from the purchase agreement and the ongoing business relationship - whether they are accrued now or in the future - including all outstanding current account balances.
- If the Purchaser acts contrary to the agreement - particularly if it falls into default with payment of a payment claim - we have the right to take back the reserved goods after we have set a reasonable grace period for payment. If we take back the reserved goods, this constitutes a rescission of the agreement. The transport costs incurred to take back the goods are borne by the Purchaser. It also constitutes a rescission of the agreement if we seize the reserved goods. We may use reserved goods we have taken back. The proceeds of use are allocated to the amounts owed by the Purchaser, after we have deducted a reasonable amount for the costs of use.
- Until complete payment of the secured claims has been made, the retained goods may not be pledged to third parties or assigned as surety. In the event of the reserved goods being seized by third parties or other interventions by third parties, the Purchaser is obligated to indicate our ownership, and notify us immediately in writing so that we can enforce our ownership rights. If the third party is not able to compensate us for the judicial or non-judicial costs in connection with this, the Purchaser is liable for these.
- The Purchaser is entitled, until revocation by us, to further sell and/or process the reserved goods in the ordinary course of business. In such cases, the following provisions also apply:
 - Retention of ownership also extends to the products arising from the processing, amalgamation or combination of our goods to their full value, whereby we are considered the manufacturers. Should the property rights of third parties continue to exist following the processing, amalgamation or combination with their goods, then we shall receive joint ownership on the basis of the proportional values of the processed, amalgamated or combined goods. Otherwise, the same shall apply for the new product as for the delivered goods that were subject to the retention of ownership.
 - The Purchaser hereby already assigns to us as surety the receivables arising against third parties from a resale of the goods or the products, or to the amount of our co-ownership share under (4) above. We accept the assignment. The Purchaser's obligations set out in (3) also apply in view of the assigned receivables. If the Purchaser has sold this receivable as part of a genuine factoring, it assigns the replacement claim against the factor to us. We accept the assignment. If the receivable from the resale by the Purchaser is placed in a current account relationship with its customer, the Purchaser assigns us its receivable from the current account relationship to the amount of the invoice value of the reserved goods. We accept the assignment.
 - Moreover, the Purchaser also hereby assigns us in full those claims concerning the reserved goods which arise for another legal reason against its customer or a third party (particularly claims from tortious acts and claims for insurance benefits) by way of security. We accept this assignment.
 - The Purchaser is authorised to collect the assigned claims, even after assignment, until revocation by us. This does not affect our power to collect the claim ourselves, but we undertake not to collect this claim for as long as the Purchaser properly complies with its obligations to us, particularly its payment obligations, does not fall into default of payment, no application is made to open an insolvency procedure, and there is no other defect in its capacity. However, if this is the case, we can request that the Purchaser disclose the claims assigned and their debtors, provide all information required for collection, surrender the associated documents, and notify the debtors (third parties) of the assignment.
 - Should a liability related to a bill of exchange accrue to us in connection with the Purchaser's payment of the purchase price, the retention of title and the claim underlying it from the delivery of goods does not expire until the bill of exchange has been redeemed by the Purchaser as the drawee.
 - Should the realisable value of the securities exceed our receivables by more than 10%, we will release the securities of our choice at the Purchaser's discretion.
- In the event that we assert our rights to showroom kitchens from the retention of title, the following applies:
For taking back showroom kitchens after exercising the retention of title, we credit the Purchaser the following against the purchase price:

- where the showroom kitchen has been delivered within the last 12 months before being recalled, 50%;
- where the showroom kitchen has been delivered within the last 13-24 months before being recalled, 15%;
- where the delivery of the showroom kitchen was more than 24 months previously, no amount.

§19 Insurance of the reserved goods

- (1) The Purchaser undertakes to insure the reserved goods, until the retention of title expires, at its own expense, against the usual risks (fire, water, theft, damage, etc.), or to keep them insured. The insured sum is (at least) to follow the purchase price. The Purchaser hereby assigns all resulting present and future claims against the insurance company to us. We accept the assignment. The Purchaser is to notify the insurance company that we own the insured goods, that we are entitled to all rights from the insurance contract, insofar as they concern the reserved goods, that we only enter into the rights and not the obligations in the insurance contract, providing that the Purchaser is not entitled to cancel the insurance policy without our consent.
- (2) At our request, the Purchaser shall promptly give us comprehensive information on the insurance cover, and deliver all documents necessary to claim the insurance benefit. An appeal to a right of retention against the claim to information and surrender of documents is excluded. If the Purchaser has not or has not sufficiently ensured that there is an insurance policy, we may do this at its risk and cost.

§20 Property rights, company logo, designs, printing plates, etc.

- (1) We reserve ownership and copyright of all documents and advertising materials provided to the Purchaser. It is entitled to use these vis-a-vis third parties to the agreed extent, and considering our industrial property rights.
- (2) In the event that goods we have delivered breach the industrial property rights or the copyright of a third party, we will, at our discretion, exchange or modify the goods, or have the right of use granted to us or the Purchaser by

concluding an appropriate licence agreement. Any of the Purchaser's compensation claims are subject to the restrictions of Sections 10 and 11 of these GTC.

- (3) Company logos, designs, printing plates, reproductions, or other representations of our models may only be displayed in newspapers, advertising leaflets, etc. or otherwise used, with our express authorisation.

§21 Jurisdiction, place of performance, choice of law

- (1) The law of the Federal Republic of Germany applies for these GTC and all legal relationships between the Purchaser and us, excluding international uniform law, especially UN sales law. The requirements and effects of the retention of title under Section 17 are subject to the law at the location in which the respective object is stored, insofar as the choice of law made in favour of German law is then unlawful or invalid.
- (2) The place of performance and jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our registered office in Rödinghausen. We are, however, also entitled to bring actions at the Purchaser's general place of jurisdiction.
- (3) The German language version alone is authoritative for the interpretation of these Terms.