

General Terms and Conditions of Sale and Delivery for Catering Appliances and Equipment from Küppersbusch Großküchentechnik GmbH & Co. KG

I. General Terms

- These General Terms of Sale (in short: GTS) for catering appliances and equipment apply for all of our business relationships with our customers (hereinafter: "Buyer"). The GTS only apply if the Buyer/contractor (§ 14 BGB [German Civil Code]) is a legal entity under public law or a special fund under public law.
- The GTS shall apply in particular to contracts concerning the sale and/or delivery of movable objects (hereinafter also: "goods"), regardless of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 651 BGB). The GTS also apply in their respective version as a framework agreement for future contracts on the sale and/or delivery of movable objects with the same Buyer, without us having to refer to them again in each individual case; in this case we will inform the Buyer immediately of any changes to our GTS.
- Our GTS shall apply exclusively. Deviating, opposing or supplementary General Terms and Conditions of the Buyer will only become part of the contract if and insofar as we have expressly approved their validity. This approval requirement applies in all cases, even if for example we make delivery to the Buyer without reservation while aware of the Buyer's General Terms and Conditions.
- Individual agreements made with the Buyer on an individual case basis (including collateral agreements, supplements and amendments) shall in any case have priority over these GTS. A written contract or our written confirmation shall be decisive regarding the content of such agreements.
- Legally relevant declarations and notifications, which are to be submitted towards us by the Buyer after conclusion of contract (e.g. the setting of deadlines, notifications of defects, declaration of cancellation or reduction), require the written form in order to be valid.
- References to the validity of statutory regulations shall only have clarifying significance. Therefore, the statutory regulations shall also apply without such a clarification insofar as they are not directly changed or are expressly excluded in these GTS.
- Should one or more provisions of these General Terms and Conditions be invalid, the provision shall remain valid insofar as it contains a valid partial provision.

II. Conclusion of contract

- As a general rule, offers are non-binding. If we bind ourselves to the offer by means of an express declaration, this commitment shall not apply for any longer than a period of 4 months. We reserve the right to make technical changes, provided they do not impact the function. The Buyer is responsible for obtaining official permits.
We reserve unrestricted rights of ownership and copyrights to all cost estimates, diagrams and other documents. These may only be made available to third parties subject to our prior consent. Diagrams and other documents belonging to offers must be returned immediately upon request if the order is not placed. Sentences 1 and 2 apply accordingly for the Buyer's documents; however, these may be made accessible to any such third parties that we permissibly subcontract for deliveries or services.
- The ordering of the goods by the Buyer shall be deemed a binding contract offer. Unless otherwise stipulated in the order, we are entitled to accept this contractual offer within 4 weeks of its receipt by us.
- Acceptance can either be declared in writing (e.g. by means of an order confirmation) or by means of the delivery of the goods to the Buyer.

III. Prices and payment conditions

- The prices are valid upon delivery without installation or mounting, ex works, including packaging, which will not be returned to us on account of an agreement made between us and Duales System Deutschland GmbH. Prices are exclusive of VAT, which will be invoiced separately at the valid rate.
- The price calculation will be based on the prices valid on the day of conclusion of contract.
- Unless otherwise agreed, as a general rule all payments must be made no later than within 30 days of the date of invoice, by bank transfer and without deductions, to the specified paying agent.
- Means of payment other than bank transfer, in particular cheques, shall only be accepted under reservation. Exchange payment shall only be accepted subject to prior written agreement. Credit shall be granted at the amount following the deduction of all costs. The day of payment shall be taken as the day on which the amount is available to us. The Buyer shall bear all costs and the risk for the transfer of the invoice amount to us. Our representatives and agents shall not accept any payments unless a written authority to collect has been issued.
- Charges for bills of exchange and discounting shall be borne by the Buyer and must be paid immediately after notification. If payment by means of promissory notes is accepted, we must receive these within 30 days of the date of invoice.
- We can terminate any goods credit granted to the Buyer with a notice period of 30 days from the end of any calendar month, or without notice for good cause. In the case of agreed exchange payments the term of the goods credit shall be extended until the due date of the bill of exchange.
- Granted rebates, bonuses and discounts only relate to deliveries for which we receive full payment on time.
- In the event of the existence of multiple receivables, we shall be entitled to settle the Buyer's payments with his receivables, in the sequence of the dates on which the payments are due. In this respect, the debtor's right to determine the order of payment in accordance with § 366 Para. 1 BGB shall be excluded.
- The Buyer shall only be granted set-off rights if his counter-claims have been established as legally binding, uncontested or acknowledged by us. The Buyer is only authorised to exercise a right of retention insofar as his counter-claims are established as uncontested or legally binding. This also applies to the exercise of the right of retention pursuant to § 369 HGB [German Commercial Code].
- Should the Buyer fall into arrears, we shall be entitled to charge interest on arrears in the amount of 9% above the respective base p.a. interest rate in accordance with § 288 Para. 2 BGB. In the event that we are able to prove higher damages due to

arrears, we will be entitled to assert this higher claim. Our claim for the commercial maturity interest (§ 353 HGB) against merchants remains unaffected.

- If there are indications after conclusion of the contract that our entitlement to the purchase price is at risk through insufficient ability on the part of the Buyer to pay (e.g. as the result of an application for opening of insolvency proceedings) then according to statutory regulations we are entitled to refuse service and - if applicable after setting a deadline - to terminate the contract (§ 321 BGB). In the case of contracts for the manufacture of non-fungible items (custom-made products) we can declare our withdrawal immediately; the statutory regulations regarding the dispensability of the setting of a deadline shall remain unaffected.

IV. Retention of title

- We reserve the ownership of the sold goods until the full payment of all of our current and future claims resulting from the purchase contract and a current business relationship (secured claims).
- The goods subject to reservation of title may neither be pledged to third parties, nor assigned as collateral prior to the full payment of the secured claims. The Buyer shall notify us immediately in writing if and insofar as third parties access goods belonging to us.
- In the case of conduct on the part of the Buyer that is in breach of the contract, in particular in the case of non-payment of the due purchase price, we shall be entitled to terminate the contract according to the statutory regulations and to request that the goods be handed over owing to reservation of title. If the Buyer does not pay the due purchase price, we may, however, only reserve the right to the cancellation if we have unsuccessfully set the Buyer a reasonable deadline for payment in advance, or if such a deadline is unnecessary in accordance with the statutory regulations.
- The Buyer is authorised to sell and/or process the goods under retention of ownership during the course of proper business. In this case the following provisions shall additionally apply.
 - The retention of title extends to products arising from the processing, mixing or connection of our goods, at their full value, whereby we shall be deemed the manufacturer. If the ownership rights of third parties remain in existence in the event of processing, mixing or combination with their goods, we shall acquire co-ownership in relation to the invoice value of the processed, mixed or connected goods. Incidentally, the same shall apply to the produced product as applies to the goods delivered under reservation of title.
 - The Buyer hereby assigns to us by way of security all claims against third parties resulting from the resale of the goods or product in total or in the amount of our possible co-ownership share, in accordance with the afore-mentioned paragraph. We shall accept the assignment. The Buyer's obligations stipulated under Section IV.2 also apply in view of the assigned claims.
 - The Buyer shall remain authorised to collect the claim, alongside us. We undertake not to collect the claim provided the Buyer meets his payment obligations, does not fall into arrears, provided that no request for the institution of bankruptcy proceedings is filed, and there exists no other deficiency in his performance capability. However, if this is the case, we can request that the Buyer inform us of the assigned claims and their debtors, provide all information necessary for the collection, hand over the relevant documents and inform the debtors (third parties) of the assignment.
 - Should the realisable value of the securities exceed our claims by more than 10%, we shall release securities at our discretion at the request of the Buyer.

V. Delivery, transfer of risk, acceptance

- The delivery shall be carried out ex-warehouse, where the place of performance is also located. At the Buyer's request and expense, the goods can be sent to another point of destination (consignment purchase). Unless otherwise agreed, we are entitled to determine the type of consignment (in particular the transport cost, route, packaging) ourselves.
- The risk of accidental loss and accidental deterioration of the goods shall be transferred to the Buyer no later than upon handover to the Buyer. However, in the case of a consignment purchase, the risk of accidental loss and accidental deterioration of the goods and the risk of delay shall be transferred upon delivery of the goods to the forwarding agent, carrier or other person or organisation entrusted with the delivery. If an acceptance procedure has been agreed on, this shall be authoritative for the transfer of risk. The statutory provisions of the law on contracts for services shall also apply to an agreed acceptance procedure in other respects. If the Buyer is in default with the acceptance, this shall be deemed equivalent to handover or acceptance.

VI. Deadline for deliveries or services; default of acceptance

- With regard to the deadline for deliveries or services, the reciprocal written declarations apply.
- Insofar as we cannot meet binding delivery deadlines for reasons for which we are not responsible (force majeure, non-availability of the service) we shall inform the Buyer immediately and shall at the same time inform him of the expected new delivery deadline. If the service is not available within the new delivery deadline we shall be entitled to terminate the contract in full or in part; we will reimburse any counter-performance already provided by the Buyer immediately. In this context, instances amounting to the non-availability of the service include, in particular, late self-delivery by our suppliers if we have concluded a congruent hedging transaction, if neither we nor our suppliers are responsible or if we are not responsible for procurement in the individual case.
- Adherence to a binding delivery deadline shall require the timely receipt of all documents, necessary authorisations, approvals, the prompt clarification and approval of plans, compliance with the agreed payment conditions and other obligations and the fulfilment of all structural requirements. Should these requirements not be fulfilled on time, the delivery deadline shall be extended by an adequate period of time. Should, following order confirmation or acceptance, the Buyer wish to make changes to the order that influence the production time of the product, then our consent to this change request requires an appropriate adjustment of the delivery deadline.

4. If the originally agreed delivery deadline is pushed back at the Buyer's request, we can charge an advance payment in the amount of 70% of the order total at the beginning of the delivery postponement. If the Buyer falls into default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, then we shall be entitled to request compensation for the resulting damages, including additional expenses (e.g. storage costs).

The proof of higher damages and our statutory claims (in particular the reimbursement of additional expenses, reasonable compensation, termination) remain unaffected; however, the flat rate is to be offset against further monetary claims. The Buyer is at liberty to provide evidence that we have incurred no damages, or that damages were considerably lower than the above lump sum.

5. The rights of the Buyer in accordance with Section IX of these GTS and our statutory rights, in particular in the case of an exclusion of the performance obligation (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance) shall remain unaffected.

VII. Assembly and installation

1. Incurred assembly costs will be invoiced by us on the basis of the agreed rates, subject to the provision of evidence. Furthermore, the Buyer must pay us the compensation for working hours and supplements for overtime, work at nights, on Sundays and on public holidays, for work under difficult conditions and for planning and monitoring at the rates agreed when placing the order. Preparation time, travel time, runtime and time dedicated to the provision of feedback shall be considered working hours.

2. The following additional provisions apply for assembly and installation:

- a) The Buyer must carry out/provide the following at his own expense and in a timely fashion:

- Auxiliary staff such as labourers and, if necessary, also bricklayers, carpenters, metalworkers/fitters, crane-operators, and other skilled workers, including the tools required by these staff in the required quantity,

- All excavation, construction, mortar, scaffolding, plastering, painting and other ancillary work not within our field of business, including the required construction materials,

- the items and materials required for assembly and commissioning, such as base layers, plaster and sealing material, lubricants etc. as well as scaffolds, hoists and other devices,

- operating power and water including the necessary connections to the point of application, heating and general lighting,

- suitable dry and lockable rooms of sufficient size at the place of assembly, for the storage of machine parts, apparatus, materials, tools etc. and adequate working and common rooms for the assembly personnel, including sanitary facilities as are appropriate in the specific circumstance. Furthermore, the Buyer must take the same measures to protect our property and the assembly personnel on the site that he would take to protect his own property.

- connection to the disposal and supply lines commonly found on construction sites.

- b) Prior to beginning the assembly work, the Buyer must appoint a responsible construction manager and provide the necessary information regarding the position of concealed power, gas and water lines, or similar systems, and the necessary static information, without request.

- c) Prior to the beginning of the installation or assembly, all brickwork, carpentry and other preparatory work must have progressed sufficiently for the installation or assembly to begin immediately after the arrival of the assembly personnel and performed without interruption. In particular, the access roads must be levelled and cleared and wall and ceiling plasterwork, as well as screed work, must be fully completed, and, in particular, doors and windows must be installed and must be lockable.

- d) If the installation, assembly or commissioning is delayed due to circumstances, on the construction site in particular, for which we are not responsible, the Buyer must, to a reasonable extent, bear the costs for maintenance time and additional trips required of the assembly personnel, without prejudice to our further statutory claims.

- e) For damages that have occurred following delivery but prior to acceptance of the delivered devices, and which have been caused by other trades, the Buyer shall bear the risk. This also applies in the case that the delivered devices have been lost after delivery to the construction site, but prior to acceptance.

- f) The Buyer must provide the assembly personnel of certification with regard to their working hours, to the best of his knowledge and on a weekly basis. Furthermore, the Buyer is obligated to immediately issue the assembly staff with a written certification regarding the completion of the installation or assembly.

VIII. Claims for defects

1. Prior to placing the order, the Buyer must check whether the goods to be delivered are suitable for the intended use.

2. Unless otherwise stated in the following provisions, the statutory provisions shall apply for the customer's rights in case of material defects and defects in title (including incorrect and short deliveries as well as improper assembly or inadequate assembly instructions). The special statutory provisions shall in any case remain unaffected in the case of the final delivery of the goods (supplier regress in accordance with §§ 478, 479 BGB).

3. The primary basis of our liability for defects shall be the agreement made concerning the quality of the goods. All product descriptions (including the manufacturer's descriptions) labelled as such and issued to the Buyer prior to the placing of his order or that have been integrated into the contract in the same way as these GTS shall be considered agreements concerning the quality of the goods.

4. If the no agreement has been made regarding quality, an assessment as to whether or not a fault is present must be made according to statutory regulations (§ 434 Para. 1 S 2 and 3 BGB). However, we accept no liability for public statements made by the manufacturer or other third parties (e.g. advertising statements).

5. Claims for defects brought by the Buyer shall require that he has properly fulfilled its inspection and notification obligations (§§ 377, 381 HGB [German Commercial Code]). Should a fault be identified upon inspection or subsequently, then we must be notified of this immediately in writing. A notification shall be considered immediate if it takes place within two weeks, whereby the timely sending of the notification shall be sufficient to adhere to the deadline. Irrespective of this inspection and notification obligation, the Buyer must report obvious defects (including incorrect and short delivery) within two weeks from delivery in writing, whereby the timely despatch of the notification is also sufficient to adhere to the deadline. If the Buyer fails to carry out the proper inspection and/or notification of defects our liability for the unreported defect shall be excluded.

6. If the delivered item is faulty, we can initially choose whether we provide subsequent performance by correcting the fault (rectification) or by delivering a fault-free item (replacement delivery). Our right to refuse subsequent performance under statutory conditions shall remain unaffected.

7. We are entitled to make the owed subsequent performance dependent on whether the Buyer has paid the due purchase price. However, the Buyer is entitled to hold back a proportion of the purchase price deemed appropriate in proportion to the fault.

8. The Buyer must grant us the required time and opportunity for supplementary performance, in particular by making the rejected goods available for inspection. In the case of a replacement delivery, the Buyer must return the faulty item to us in accordance with statutory regulations. The subsequent performance shall include neither the dismantling of the faulty item nor reinstallation if we were not originally obliged to perform installation.

9. We shall bear the costs required for the inspection and subsequent performance, in particular transport, infrastructure, working and material costs (not including: dismantling and assembly costs) if there is an actual fault present. However, if it is determined that a request for remedy of a defect by the Buyer is unjustified we can request reimbursement for any costs incurred from the Buyer.

10. In urgent cases, e.g. in which operational safety is jeopardised or in order to prevent loss or damage that would be disproportionately higher than the costs of remedying the defects, the Buyer has the right to rectify the fault himself and to request compensation from us for any objectively necessary expenses. We must be informed about these activities immediately, if possible prior to the repair. The right of self-remedy shall not apply if we would have been entitled to refuse corresponding subsequent performance in accordance with statutory provisions.

11. If the subsequent performance has failed or a reasonable deadline that is to be set by the Buyer for the subsequent performance has expired unsuccessfully or is dispensable according to the statutory regulations, the Buyer can terminate the purchase contract or reduce the purchase price. However, this right of withdrawal does not exist in the case of an insignificant defect.

12. The Buyer shall only have a claim to damages or to the reimbursement of expenses incurred in vain in accordance Section IX and such claims are excluded in all other respects.

IX. Disclaimer and limitation of liability

1. Insofar as nothing to the contrary arises from these GTS, including the following provisions, we shall be liable in the event of a violation of contractual and non-contractual obligations in accordance with the relevant statutory provisions.

2. We shall be liable for compensation – irrespective of the legal grounds – in the case of intent and gross negligence. In the case of simple negligence we shall only be liable

- a. for damages resulting from death, physical injury or damage to health,

- b. for damages resulting from the violation of an essential contractual obligation (an obligation whereby the proper performance of the contract is actually only possible in the event of its fulfilment, and whereby the contractual partner regularly relies and may rely upon its fulfilment); however, in this case our liability is limited to compensation for foreseeable, typically occurring damages.

3. The liability limitations resulting from Section IX.2 do not apply if we fraudulently conceal a fault or if we have issued a warranty concerning the quality of the goods. The same applies for claims brought by the Buyer pursuant to the German Product Liability Act.

4. Due to a breach of obligation that is not attributable to a defect, the Buyer can only withdraw or terminate if we are responsible for the breach of obligation. A free right of termination on the part of the Buyer (in particular in accordance with §§ 651, 649 BGB) shall be excluded. Otherwise the legal preconditions and legal consequences are applicable.

X. Limitation period

1. In deviation from § 438 Para. 1 No. 3 BGB the period of limitation for claims resulting from defects in goods or title shall be one year from delivery. If an acceptance procedure has been agreed on, the limitation period shall commence upon acceptance.

2. However, if the goods are a building or an object that has been used as a building in accordance with its normal use, having thus caused its defectiveness (construction material), according to the statutory regulations the period of limitation is 5 years from delivery (§ 438 Para. 1 No. 2 BGB). Special statutory regulations concerning in rem claims for the restitution of property to third parties (§ 438 Para. 1 No. 1 BGB), in the case of malice on the part of the Seller (§ 438 Para. 3 BGB) and for supplier's claims of recourse in the case of final delivery to a consumer (§ 479 BGB) shall remain unaffected.

3. The above-mentioned limitation period shall also apply to the Buyer's contractual and non-contractual compensation claims concerning defective goods, unless the application of the standard legal limitation period (§§ 195, 199 BGB) would result in a shorter limitation period in the individual case. The limitation periods of the German Product Liability Act shall in any case remain unaffected. Otherwise any claims for damages brought by the Buyer under Section IX shall be governed exclusively by the statutory provisions.

XI. Return of goods

The return of goods by the Buyer that does not take place on account of statutory regulations requires prior agreement with us. We reserve the right to charge processing costs in the amount of 30% of the value of the returned goods.

XII. Applicable law and jurisdiction

1. For these GTS and all legal relations between us and the Buyer, the law of the Federal Republic of Germany shall apply, with the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods. The prerequisites for and the effects of retention of title in accordance with Section IV shall be governed by the law in force at the respective place where the goods are stored if, under that law, the choice of German law should be inadmissible or invalid.

2. If the Buyer is a merchant (Kaufmann) as defined in the German Commercial Code (Handelsgesetzbuch), a legal entity under public law or a special body or fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising either directly or indirectly from the contractual relationship shall be our place of business in Gelsenkirchen. However, we are also entitled to take legal action at the general place of jurisdiction of the Buyer.

Valid as of: July 2015