

Conditions of sale and delivery

of RWK & Kuhlmann Küchen GmbH, Löhne

Unless otherwise agreed by individual contract, the following applies:

1. Scope of application, deviating agreements

- 1.1 These General Terms and Conditions of sale and delivery ("**Terms**") apply to all sale and delivery agreements concluded with our customers (hereinafter "**Customers**"), including subsidiary agreements, provided that the Customer is a contractor and concludes the contract in the exercise of his commercial or self-employed professional activities in the sense of § 14 BGB [Civil Code].
- 1.2 Deviating conditions of the customer that are not explicitly acknowledged will not apply. This will also be the case if we deliver without reservation in the knowledge of Terms and Conditions of Business of the Customer that contradict or deviate from our Terms.

2. Conclusion of contract

- 2.1 Our offers, including the selling prices indicated in our price lists, are non-binding, unless expressly designated as binding. Verbal or written orders represent a binding offer to which the Customer will be bound for 14 days.
- 2.2 The contract is concluded by our confirmation of order (also via e-mail) or by the sending of the goods by us.

3. Product documents

- 3.1 Documents, images, drawings, information on services, weights and measurements in our catalogues, product data sheets and on our website are as accurate as possible, but reflect only approximate values and do not constitute quality information in respect of the goods, unless expressly stated as binding. The right is reserved to make improvements and dimensional changes to the normal commercial extent reasonable for the Customer.

We reserve ownership and copyrights in respect of illustrations, drawings and other documents. They may not be copied or made accessible to third parties or used for own production without our express written consent.

4. Prices / Payment conditions / Prohibition on offsetting

- 4.1 Delivery will be made on the basis of the price lists valid at the date of concluding the contract. Unless otherwise agreed, prices are net prices in Euro "ex works" (Incoterms 2010) in Löhne, Germany, without packaging, and plus Value Added Tax at the statutory rate and any other taxes and charges incurred for the execution of the order.
- 4.2 If, after the conclusion of the contract, the conditions governing the determination of the fee, especially the cost of materials, wages, transport and public charges to be borne by us, change in a manner not predictable for us and for which we are not responsible, we reserve the right to adjust our prices in the same proportion. Cost increases will be justified to the Customer on request.
- 4.3 Customer payments shall be made exclusively to our account number specified on the order confirmation or invoice. Payments to third parties are not debt-discharging.
- 4.4 Unless the parties have made a different agreement in writing, all invoices for deliveries (or other services) are to be paid within 30 days of the invoice date, without deductions. Receipt of the money by us will be the criterion for payment on time. On expiry of this period the Customer will fall into payment arrears.
- 4.5 In the event of default by the Customer, we will charge interest of 9 percentage points above the current base rate of the European Central Bank p. a.
- 4.6 The right is reserved to assert the statutory flat rate default payment and possibly the payment of higher damages for payment arrears.
- 4.7 Cheques and bills of exchange will only be accepted by explicit agreement and only in fulfilment, with calculation of any expenses and discount.
- 4.8 Our claims will fall due immediately independently of the duration of the term of any cheques and bills accepted in fulfilment if contractual agreements have been seriously violated by the Customer and the Customer is responsible for this. In this case, we will be entitled to execute outstanding deliveries or services only against advance payment or the provision of security.
- 4.9 Counterclaims by the Customer or the withholding of payments due to such claims is only permitted if the counterclaims are undisputed, ready for decision or legally determined.

5. Delivery and consequences of delayed delivery

- 5.1 Deliveries are made ex works (Incoterms 2010) in Löhne, Germany.
- 5.2 The delivery periods and delivery dates specified by us are only approximate, unless they have been expressly agreed as binding.
- 5.3 In cases of force majeure or other events unforeseeable at the time of concluding the contract which we are unable to avert in spite of all reasonable diligence under the circumstances of the individual case, regardless of whether these occurred at our premises or at our suppliers' or subcontractors' premises (self-supply reservation) such as war, natural disasters, operating breakdowns, lawful strikes, lockouts or official orders, these delivery periods / delivery dates will be extended by the duration of the hindrance plus a reasonable start-up time. If such hindrance prevents performance for more than four months, either party may withdraw from the contract. If, as a result of the aforementioned circumstances, delivery becomes impossible or unreasonable for no fault of our own, we will be entitled to withdraw fully or partially from the contract in respect of the unfulfilled part of the contract. In this case, the Customer will not be entitled to any claims for damages against us. Any statutory rights of withdrawal will remain unaffected thereby.
- 5.4 If the Customer has to set an appropriate reasonable additional period of time to pursue legal remedies against us, this additional period will be at least two weeks.
- 5.5 In the event of delayed or impossible delivery, we will be liable for claims for damages only in accordance with point 7.

6. Material defects / Warranty

- 6.1 We guarantee the fault-free production of the goods delivered by us in accordance with the agreed technical supply specifications. We will not assume any guarantees unless these are expressly agreed.
- 6.2 Even if samples or specimens have been previously sent, the Customer must carefully examine the goods delivered immediately upon arrival at their destination. Obvious defects must be reported to us forthwith in writing, no later than five working days after delivery. Hidden defects must be notified to us immediately in writing, no later than five working days after discovery. If the defect was already recognisable for the Customer under normal use at an earlier date, this earlier date will be the criterion for the beginning of the complaints period.

- 6.3 The Customer is to allow us the opportunity to inspect the goods alleged to be defective. If the complaint is unjustified, the Customer must reimburse to us the expenses thus incurred, unless he is not responsible for the unjustified complaint. On our request, the goods which are the subject of the complaint are to be returned to us freight paid. In case of justified complaint, we will refund the cost of the cheapest method of despatch; this will not apply if the costs increase because the goods are located at a place other than the place of the intended use.
- 6.4 In the case of a defect reported on time, the Customer will, at our discretion, be entitled to repair or delivery of a fault-free item ("subsequent performance"). The subsequent performance will be accomplished at the location of the original delivery; it will be considered to have failed at the earliest after three unsuccessful attempts. Replaced parts will become our property.
- 6.5 The costs necessary for the purpose of supplementary performance, in particular transport, travel, labour and material costs, will be paid by us if a fault is actually present. Subsequent performance will not include either the removal of the faulty item or its reinstallation, if the supplier was not originally obliged to undertake installation.
- 6.6 Warranty claims will not be granted for faults caused by inappropriate or improper use, faulty installation or commissioning by the Customer or third parties, normal wear and tear, faulty or negligent treatment. The warranty will be void if the customer modifies the delivery item without our consent or has it altered by a third party, and the remedial measures are thus rendered impossible or unreasonably difficult. In any case, the Customer will bear the additional costs of correcting the defect resulting from the modification.
- 6.7 In the case of defects of components made by other manufacturers, which we cannot eliminate due to licensing or factual reasons, we will, at our discretion, assert our warranty claims against the manufacturers and suppliers on behalf of the Customer or assign these to the Customer. Warranty claims against us in the case of such defects will exist under the other preconditions and in accordance with these General Terms and Conditions of Business only if the legal enforcement of the aforementioned claims against the manufacturer or supplier was unsuccessful or is pointless, for example due to a bankruptcy.
- 6.8 The warranty period will be for one year from delivery or, if acceptance is required, as from acceptance. The five year limitation period for buildings and objects that are used in accordance with their usual purpose for a building will remain in place. The statutory

limitation periods in cases of fraudulent concealment and claims asserting a right of recourse for deliveries pursuant to §§ 478, 479 BGB [Civil Code] will not be affected.

- 6.9 The Customer will only be entitled to claims for damages due to defects to the extent that our liability is not excluded or limited in accordance with point 7. Further claims or claims regarding a defect other than those regulated in this point 6 are excluded.

7. Liability, limitation period

- 7.1 We will only be liable for gross negligence and intention and in the event of a breach of major contractual obligations, the fulfilment of which is essential for proper execution of the contract, and on adherence to which the customer may regularly rely ("cardinal obligation").

- 7.2 In case of a slightly negligent breach of a cardinal obligation, our liability will be limited to damage typical of the contract foreseeable on conclusion of the contract.

- 7.3 In so far as our liability is limited or excluded, this will also apply to the liability of our employees, representatives or agents.

- 7.4 The aforementioned limitations of liability and liability exclusions will not apply to fraudulent concealment of defects, the assumption of a guarantee or a procurement risk, for liability under the Product Liability Act and for bodily injury (injury to life, limb or health). A change in the burden of proof to the detriment of the Customer is not associated herewith.

- 7.5 Except for claims arising from unlawful acts, claims for damages by the customer for which liability is limited under this provision will expire by prescription one year after the statutory limitation period.

8. Retention of title

- 8.1 The following retention of title serves to secure all of our existing current and future claims against the Customer from the ongoing business relationship existing between the parties, including all current account balance claims (hereinafter "**secured claims**").

- 8.2 All goods supplied by us will remain our property until payment in full of all secured claims. The goods and the goods replacing them in accordance with the following provisions that are included in the retention of title will be hereinafter referred to as "**reserved goods**".

- 8.3 Any processing of the reserved goods will always be carried out on our behalf and for us as a manufacturer within the meaning of § 950 BGB [Civil Code], without placing us under an obligation. Processed goods are considered as reserved goods in accordance with point 8.2. We hereby offer the Customer the granting of an expectancy right to the new objects or our co-owned shares in these new objects arising through processing, combining or mixing. The Customer accepts this offer.
- 8.4 In the case of processing, combining and mixing of reserved goods by the customer with goods of a different origin into a new product or mixed stock, we will be entitled to co-ownership of the same, specifically, in the ratio of the value of the goods (final invoice amount including turnover tax) at the date of delivery to the value of the other processed, mixed or combined goods (final invoice amount including turnover tax) at the date of treatment, processing, combining or mixing. The co-ownership share will be considered as reserved goods in accordance with point 8.2. In the event that no such acquisition of ownership should arise to us, the Customer hereby transfers his future ownership or - in the above-mentioned ratio - his co-ownership of the newly created item or the mixed stock to us as security. We accept this transfer.
- 8.5 If the reserved goods are combined with other goods to a single object or are inseparably mixed, and if one of the other items is the main item within the meaning of § 947 BGB [Civil Code], the Customer hereby transfers to us, as far as the main item belongs to him, the proportional co-ownership of the uniform item in the ratio of the value of the reserved goods (final invoice amount including turnover tax) at the date of delivery to the value of main item (final invoice amount including turnover tax). We accept this transfer. The co-ownership share is considered as reserved goods in accordance with point 8.2.
- 8.6 The Customer is to keep the reserved goods for us free of charge. The reserved goods may neither be pledged to third parties nor transferred as security before payment in full of the secured claims.
- 8.7 The Customer undertakes to treat the reserved goods with due care. In particular, he undertakes to insure the reserved goods sufficiently at his own expense against fire, water and theft at replacement value.
- 8.8 The Customer undertakes, in the case of attachment, seizure or other dispositions or interventions by third parties involving the reserved goods, to point out our ownership of the same immediately and to notify us of this in writing, to enable us to enforce our property rights, in particular by bringing an action pursuant to § 771 ZPO [Code of Civil Procedure]. The Customer shall bear all judicial and extrajudicial costs that must be

incurred for cancellation of access to and replacement of the reserved goods, if they cannot be recovered from third parties.

- 8.9 The Customer will be entitled to resell the reserved goods in the ordinary course of business, if it is guaranteed that his claims from the resale pass over to us pursuant to points 8.10 to 8.12.
- 8.10 In the case of resale of the reserved goods, the Customer hereby assigns to us by way of security any resulting claim against the buyer as well as those claims that take the place of the reserved goods or otherwise arise with respect to the reserved goods, such as insurance claims or claims from unlawful actions in the event of loss or damage, including all current account balance claims. We accept this assignment.
- 8.11 If the Customer sells the reserved goods together with other goods not supplied by us, the assignment of the claim from the resale will apply only to the value of our reserved goods (final invoice amount including turnover tax) applicable at the time of delivery. When goods in which we have joint ownership in accordance with points 9.4 or 9.5 are sold, the assignment of the claim will apply to the amount of this co-ownership share.
- 8.12 If a current account relationship exists between the Customer and the latter's customers in accordance with § 355 HGB [Commercial Code], the claim assigned to us by the Customer in advance relates to the acknowledged balance, and in the event of insolvency of the customer, to the then existing "causal" balance.
- 8.13 The Customer is revocably authorised to collect the claims from the re-sales pursuant to points 8.10 to 8.11. We will only be entitled to revoke the direct debit authorisation in accordance with point 8.14 entitled.
- 8.14 If the Customer fails to fulfil his obligations under this agreement with us, he will, in particular, fall into payment arrears, which means that
- We can prohibit the resale, the treatment and processing of the reserved goods and their mixing or combining with other goods;
 - We can withdraw from this contract in accordance with all the general withdrawal regulations of § 323 BGB [Civil Code]; in case of withdrawal, the right of the Customer to possession of the goods will expire, and we can demand the handover of the reserved goods; we will then be authorised, by arrangement with the Customer, to enter the Customer's business premises and to take the reserved goods into our possession at the expense of the Customer and, without prejudice to the payment and other obligations of the Customer, realise their value

in the best possible way by private sale or by way of auction; we will offset the proceeds of the sale against the Customer's liabilities, after deducting costs incurred; we will pay the Customer any surplus remaining;

- The Customer is to inform us on request of the names of the debtors of the claims assigned to us, so that we can disclose the assignment and collect the claims; all proceeds due to us from assignments are to be forwarded to us immediately on receipt in each case if and as soon as our claims against the Customer fall due;
- We will be entitled to revoke the direct debit authorisation.

8.15 If the realisable value of the securities existing for us exceeds our claims by more than 10 %, we will release the securities of our choice on request by the Customer.

9. Place of performance, applicable law and place of jurisdiction

9.1 The place of performance for all delivery and payment obligations is Löhne, Germany, unless otherwise stated in the order confirmation.

9.2 German law will apply, with exclusion of the United Nations Convention on the International Sale of Goods (CISG).

9.3 The place of jurisdiction for all disputes arising out of or in connection with the delivery transaction - also for bills of exchange and cheques - is Löhne, Germany, provided that the customer is a trader or has no general place of jurisdiction in Germany. However, we reserve the right to sue the Customer at his general place of jurisdiction. Statutory provisions on exclusive responsibilities will not be affected.

10. Final provisions

10.1 The contract concluded in writing will be the sole criterion for the legal relationships between the Customer, including these General Terms and Conditions of Sale. These documents fully reflect all the agreements made between the parties on the date of concluding the contract. Any verbal or written agreements or conditions and other pre-contractual correspondence and proposals carried out prior to concluding this contract will be superseded by this contract, unless it is expressly specified therein in each case that they are to remain in force.

10.2 Orders, declarations of acceptance, amendments or further subsidiary agreements and agreements which are made prior to or upon conclusion of the contract will not be legally effective unless in writing. Verbal guarantees by our representatives or other ancillary

persons require written confirmation by us. The same will apply to the granting of quality guarantees.

10.3 Transactions with contractors will be treated the same as transactions with legal entities under public law and public law special funds.

10.4 If any provision of this contract should be wholly or partly ineffective, the validity of the remaining provisions of this contract will not be impaired by the ineffectiveness of that provision. The parties will replace the ineffective provision by a legally valid provision which comes as close in economic terms as is legally permissible to the regulatory purpose pursued by the invalid provision.