

General terms and conditions of sale and delivery of Koch Tiefkühlkost, 10707 Berlin

§ 1 Scope of the terms and conditions

The seller's deliveries, services and offers are all provided on the exclusive basis of these terms and conditions. The latter therefore also apply to all future business relations, even if they are not agreed again. These terms and conditions are regarded as accepted with the acceptance of the goods or services at the latest. Any terms and conditions that are contrary to or different from those of the seller will not be recognized by the seller unless the seller has explicitly agreed to their applicability in writing. The seller's terms and conditions also apply if the seller performs the delivery without reservations in awareness of buyer terms and conditions that are contrary to or different from the seller's terms and conditions.

§ 2 Offer and prices

- (1) The seller's offers are subject to alteration and non-committal unless explicitly agreed otherwise.
- (2) Unless agreed otherwise, all prices are understood as ex factory, in euros and plus VAT at the statutory amount applicable on the invoice date, insofar as due.
- (3) Unless agreed otherwise, all prices are understood plus licence fee according to the price list of the dual system commissioned by us applicable on the day of contract conclusion.

§ 3 Delivery period and time of performance

- (1) Delivery dates or periods that can be agreed bindingly or non-bindingly must be in writing.
- (2) The seller is not answerable for delays in the provision of deliveries or services that are attributable to force majeure or caused by events that significantly complicate or prevent the delivery for the seller – in particular including strikes, lockouts, official orders, traffic congestions that are no fault of the seller, insufficient self-delivery, fire, frost, accidents, machine damage, lack of transport space, import restrictions, import embargoes, war, political turmoil, unrest, energy shortage, etc, also if they occur at suppliers of the seller or their sub-suppliers – even if periods or dates have been bindingly agreed. They entitle the seller to postpone the delivery and/or performance for the duration of the obstacle plus a reasonable lead time, or to withdraw from the contract in whole or in parts with regard to the not yet fulfilled part.
- (3) If the obstacle lasts longer than three months, the buyer is entitled to withdraw from the contract with regard to the not yet fulfilled part after setting a reasonable grace period. If this delivery period is extended or the seller is released from its obligation, the buyer cannot derive any compensation claims from this. The seller can only invoke the mentioned circumstances if it informs the buyer without delay.
- (4) Unforeseen fluctuations in currency exchange rates, freight or insurance rates are at the expense of the client. The same applies to changes in customs tariffs, dues and countervailing charges since contract conclusion.
- (5) Sales are subject to correct and timely self-delivery.
- (6) The seller is entitled to provide partial deliveries and partial services at all times.
- (7) Fulfilment of the seller's delivery and performance obligations is conditional to the timely and due fulfilment of the buyer's obligations.

§ 4 Reservation of ownership

- (1) Until the payment of all claims (including all balance claims on current account) due to the seller from the buyer now or in future on whatever legal grounds, the seller is granted the following securities, which it will release at its option upon request insofar as their value sustainably exceeds the claims by more than 20 %.
- (2) Goods remain the property of the seller. Processing or conversion is always provided for the seller as manufacturer, but without obligations for it. If the seller's (co-) ownership lapses due to combination, it is already agreed now that the buyer's (co-) property of the uniform item passes to the seller in proportion to the value (invoice value). The buyer safekeeps the (co-) property of the seller free of charge. Goods that the seller is due (co-) ownership of are referred to as reserved goods below.
- (3) The buyer is entitled to process and sell reserved goods in the ordinary course of business as long as it is not in default. Pawning or assignment as security are not permitted. The buyer already assigns claims arising from the resale or other legal grounds (insurance, unlawful acts) with respect to reserved goods (including all balance claims on current account) to the seller now in full as a precaution. The buyer irrevocably authorizes the seller to collect claims assigned to the seller on the

seller's own account and in the seller's name. This collection authorization can only be revoked if the buyer fails to duly honour its payment obligations.

(4) If third parties resort to reserved goods, especially in pledge, the buyer will point out the ownership of the seller and inform the seller immediately to enable its assertion of its property rights. Insofar as the third party is unable to refund the judicial extrajudicial costs arising in this context to the seller, the buyer will be liable for them.

(5) If the buyer is in breach of contract – especially in default – the seller is entitled to take the reserved goods back or demand assignment of the buyer's surrender claims against third parties, as the case may be. The taking back or attachment of reserved goods by the seller do not constitute a withdrawal from the contract.

§ 5 Payment

(1) A payment is only regarded as made once the seller can dispose over the amount. In the case of cheques, the payment is only regarded as made once the cheque has been cashed.

(2) If the buyer enters into default, the seller is entitled to demand interest at 8 percent above the base rate from the date in question. Proof of higher damages by the seller is permitted.

(3) If it gains knowledge of circumstances that call the buyer's creditworthiness into question, especially including failure to honour cheques or a discontinuation of payments, the seller is entitled to declare the total outstanding debt immediately payable even if it has accepted cheques. The seller is moreover entitled to demand advance payments or collateral security in this case.

(4) Even if complaints about defects or counterclaims are asserted, the buyer is only entitled to offsetting, retention or reduction if the counterclaims are undisputed or have been determined without further legal recourse. The buyer is entitled to retention for counterclaims from the same contractual relationship too, however.

(5) We are entitled to assign the claims arising from our business relations.

(6) If the buyer is in default with any payment obligations towards us, all existing claims shall become due immediately.

§ 6 Limitation of liability

Unless in breach of material contractual obligations, the seller is only liable for damages in the event and to the extent of deliberate intent or gross negligence on the part of the seller, its legal representatives, executives and other vicarious agents. If in breach of material contractual obligations, the seller is liable for all culpable conduct of its legal representatives, executives or other vicarious agents. In the absence of deliberate intent or gross negligence on the part of its legal representatives, executives or other vicarious agents, the seller's liability is limited to the damage typically foreseeable at the time of contract conclusion. A liability to compensate for indirect damage, especially lost profits, only applies in case of deliberate intent or gross negligence on the part of the seller's legal representatives, executives or other vicarious agents. The disclaimers and liability limitations above do not apply if the seller provides express warranties, to damages arising from injury to life, body or health, or in the event of mandatory legal provisions.

§ 7 Applicable law, place of jurisdiction

(1) These terms and conditions and the entire legal relations between the seller and buyer are governed by the laws of the Federal Republic of Germany.

(2) If the buyer is a registered trader within the meaning of the German commercial code, a legal entity of public law or a special fund under public law, Berlin-Charlottenburg is the exclusive place of jurisdiction for all disputes arising from the contractual relationship directly or indirectly.

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