

FPS Catering GmbH & Co. KG

General terms of business for corporate clients

I. Scope and amendments to these general terms of business

1. For all transactions between the client and FPS Catering GmbH & Co. KG (hereinafter referred to as "FPS Catering") these general terms of business ("terms") apply, as long as the client is a business, a legal entity under public law and a special fund under public law.
2. The terms apply exclusively. Contradictory and/or supplementary general terms of the client shall not apply unless FPS Catering gives its express written consent.
3. All quotations are subject to change. By placing an order on the phone or in writing, the client acknowledges the following terms.
4. The terms shall also apply as a framework agreement in their amended version in each case for future transactions between FPS Catering and the client without further reference to them required. Within a contract any amendments to these terms shall be provided in writing to the client no later than two months before the proposed date on which they come into force. If the client has agreed to a method of electronic communication with FPS Catering in the context of its business relationships, the amendments may also be provided in this way. The client's consent shall be deemed as given, if he has not announced his rejection of them before the proposed date on which the amendments come into force. FPS Catering shall refer him particularly to this approval outcome in its quote.

II. Product range

FPS Catering's extensive range is repeatedly subject to seasonal changes. Should individual items not be available temporarily, FPS Catering reserves the right to replace them with at least equivalent goods.

III. Buffet serving time

1. In the interest of quality and with regard to the guidelines of food hygiene regulations the serving time for buffets is restricted to a maximum of three hours. If the booking is required for a longer period, the client may switch to different times for the total amount by arrangement with FPS Catering.
2. In the case of what are known as buffet deliveries FPS Catering assumes no liability at all for improper storage of the delivered items from the time of handover to the client in accordance with point VII.

IV. Prices, price list and VAT

1. The client is obliged to pay the prices agreed for these services to FPS Catering. This also applies to outstanding services and expenses of FPS Catering to third parties in connection with the event, insofar as the expenses and services have been contractually agreed or approved by the client.
2. If prices have not been agreed in individual cases, the prices included in the latest price list apply.
3. FPS Catering is entitled to increase prices, whenever the wages and costs they are based on for the agreed remuneration increase and more than two months have elapsed between signing the contract and delivery or handover to the client.
4. The agreed prices are quoted exclusive of the respective statutory VAT.
5. In addition to the actual remuneration, the customer bears certain expenses which must be reimbursed.

V. Due date, down payment, default

1. The following rules shall apply to contracts in the "event" and "business" sectors: Unless otherwise agreed in writing, an advance payment in the amount of 80% of the order sum shall be due immediately after conclusion of the contract for orders with a value of 3.000,- EUR net or more. The remaining 20 % of the order amount (incl. any additional orders placed) shall be due immediately after the event.
2. 100% prepayment is always required for customers based outside Germany. This must be paid by bank transfer or credit card. The order is only valid after receipt of payment. For any additional orders, the credit card details must be provided with the order.

FPS Catering will additionally reserve a deposit (security deposit) on the customer's credit card to secure any additional orders. The settlement will be made after the end of the event.

We accept American Express, MasterCard and Visa.

3. The payments are to be made by bank transfer at the client's expense.
4. Our invoices are due for payment immediately upon receipt without deduction. In the event of delayed payment we are entitled to charge interest at the rate of 9% points above the base rate in accordance with § 247 BGB (Civil Code). We are entitled to demand any further compensation for damages and invoke other statutory rights, in particular to demand payment of a lump sum of €40.
5. The customer reports the correct invoicing address together with signing the contract. Should invoices have to be changed due to name or address changes we will charge an administrative fee of 15,- EUR net of VAT.

VI. Withdrawal, cancellation, costs, change in guest numbers, payment obligation despite strikes

1. The client always has the right to withdraw from the contract. Insofar as no other written agreements have been made between the client and FPS Catering, FPS Catering has the right to reasonable compensation as follows.
 - 1.1. In case of cancellation of the placed order up to seven full working days before the first day of the event, 80% of the last valid offer will be charged.
 - 1.2. In case of cancellation of the placed order up to three full working days before the first day of the event, 90% of the last valid offer will be charged.
 - 1.3. In case of cancellation of the placed order less than three full working days before the first day of the event, 100% of the last valid offer will be charged.
2. If no amount has yet been contractually agreed for food and beverages, charges will be calculated based on the lowest priced buffet or menu of the valid event quotation in each case.
3. Contracts concluded for premises are charged based on the cancellation conditions of the respective lessor.
4. The client does not owe any compensation in accordance with paragraphs 1,2 and 3, if he can prove that FPS Catering has not incurred any damages or depreciation as a result of a cancellation or that the damages or depreciation are significantly lower than the lump sum.

5. The client is obliged when ordering to notify FPS Catering of the likely number of guests. FPS Catering must be informed in writing of the menu plan and other important details for the event no later than ten full working days before the day of event, in order to ensure thorough preparation. The final number of guests can be told to FPS five days before the day of event. With orders placed at short notice the decision must be notified in writing after the quote is submitted.
6. The client is obliged to notify FPS Catering of the exact course of the event no later than three working days before the event, otherwise the requested event schedule cannot be guaranteed.
7. If the number of guests is reduced by more than 10% FPS Catering is entitled to increase the agreed prices per person appropriately.
8. In the event that the number of guests deviates upwards the actual number of guests will be charged.
9. The client is also obliged to pay for goods and services ordered if his business is affected by strikes.

VII. Transport, transfer of risk, handover

1. If FPS Catering ships the delivery item to a location other than its company headquarters, the risk is transferred to the client, as soon as FPS has delivered the goods or leased item to the shipper, carrier or other third party assigned to ship them. If the shipment is undertaken with FPS Catering's own vehicles, the risk is transferred at the time the vehicles arrive at the destination designated by the client. The client bears the transport costs from FPS Catering's headquarters to the destination.
2. The handover of the delivery item occurs formally and immediately upon the performance of service/delivery. The client is obliged to be present at handover time or be represented by a duly authorised agent. As such, it is expressly acknowledged that a handover date shortly before the beginning of an event is not unreasonable.
3. Any pending partial services or reported defects shall be remedied or eliminated as soon as possible. As long as they do not significantly impair the overall performance, they do not justify a refusal to accept delivery.
4. If the client has made use of the service or part thereof without prior formal handover, in particular by starting to consume the delivered or prepared meals and beverages, handover is deemed completed with the initiation of usage.

VIII. Dates, delivery

1. Delivery shall be made in line with the agreement reached separately in each case. The agreed delivery and service dates are binding, unless FPS Catering has been unable to fulfil its obligations due to the occurrence of unforeseeable, extraordinary circumstances, which it was unable to avoid despite the reasonable care taken based on the circumstances of the case or prevented by force majeure. In this case and if the delivery cannot be completed within a reasonably extended period, FPS Catering shall be exempt from its delivery and service obligations. Insofar as FPS Catering is not responsible for not complying with the delivery deadline, the client has no right to claim damages. FPS Catering is not responsible for the delay or impossibility of delivery if FPS Catering has been delayed by or not received deliveries from its suppliers (failure of suppliers to honour obligations).
2. Delivery shall be made to the best of his knowledge on the agreed delivery date to the delivery address designated by the client. The client shall notify when ordering of particular aspects in relation to the place of delivery, such as building sites, long routes, stairways, non-functioning lifts, etc., so that FPS Catering can adapt to these in terms of time and organisation. If FPS Catering lacks this information or if especially complex circumstances are involved concerning the place of delivery, FPS Catering reserves the right to charge a lump sum to cover additional expenses.

3. Time shifts have to be reckoned with for each delivery, on which FPS Catering can have no influence even with due diligence. The client shall obtain any official licences or parking permits required.
4. Delays due to force majeure, in particular unforeseeable traffic problems are not at the expense of FPS Catering. In the event of delays due to previously mentioned reasons, the agreed deadlines are postponed for the period of the delay.
5. The risk of loss, damage, depreciation and deterioration of the item provided is transferred to the client no later than at the handover thereof to the client.

IX. Defects and warranty

1. Complaints due to obvious defects must be specified immediately (if possible on site) upon receipt of the goods in writing but no later than 24 hours after the event has ended. Otherwise FPS Catering's service is deemed as accepted by the client.
2. In the case of justified defects FPS Catering may choose the right to repair or replace the item at its discretion. If the attempt at repair fails, the client may in the case of only a minor defect undertake a price reduction or withdraw from the contract at his discretion.
3. FPS Catering shall continue to ensure that the goods to be delivered will be carefully and properly shipped. FPS Catering is not liable for damage to the goods incurred after delivery to the client due to improper usage, such as unsuitable storage temperatures.
4. The warranty does not extend to such defects that are incurred by the client due to natural wear and tear, moisture, intense heat or improper treatment or improper storage. Likewise, the warranty does not extend to reasonable variations in shape, dimensions, appearance, consistency, flavour and other characteristics of the goods, especially for food.
5. The limitation period for claims by the client due to defects is restricted to one year.

X. FPS Catering's liability

1. FPS Catering is liable for damages only
 - In the event of intent,
 - In the event of gross negligence,
 - In the event of culpable injury to life, limb or health,
 - In accordance with the Product Liability Act,
 - And subject to the following provisions
2. In the event of culpable violation of significant contractual obligations, FPS is also liable for slight negligence, in the latter case restricted to contract-typical, foreseeable damage. Significant contractual obligations are those the fulfilment of which only enable the proper execution of the contract and on whose compliance the parties can rely and trust on a regular basis.
3. Any further claims are excluded.
4. FPS Catering is not liable for damages caused by FPS Catering's goods and food, if the client does not return leftover goods and food to FPS Catering at the end of an event but distributes them to third parties.

5. No liability is assumed for defective deliveries or services of third party companies, which FPS Catering has hired on the client's behalf, as long as there is no evidence of FPS Catering's wilful or grossly negligent violation of its duty of care in selecting and monitoring the third party companies and as long as damage to life, limb and health occurs due to FPS Catering's breach of its obligation. The client may if need be demand the assignment of FPS Catering's claims against the third party company.
6. Neither is FPS Catering liable for defective deliveries or services to the client himself or third parties, in particular in the case of food and beverages they bring themselves.

XI. Termination by FPS Catering

FPS Catering is entitled to terminate the contract for cause at any time. Good cause exists in particular if

- The event jeopardises smooth business operation and/or the safety of staff can no longer be guaranteed,
- The reputation and security of FPS Catering is significantly jeopardised,
- In the case of force majeure, as long as fulfilment of the contract becomes temporarily difficult or impossible,
- If agreed payments on account by the client are not received on the due dates.

XII. The client's liability

1. The client is liable for damages caused by guests, staff or the client's agents. FPS Catering shall be fully compensated for the costs arising therefrom. In the event of damage, breakage or theft of the equipment used (glassed, cutlery, crockery, table linen, decorations, etc.) FPS Catering shall invoice the client for these in full. The counting of used equipment takes place on the FPS premises.

FPS Catering may request proof of appropriate liability insurance from the client. FPS Catering is not liable for loss, breakage or damage of items brought in by clients.

2. The duty of care for leased items is incumbent on the client from receiving until returning them. Any damage, shortages or loss are the client's responsibility and FPS Catering will charge for them separately.

XIII. Place of fulfilment

If the catering takes place in Frankfurt am Main, the place of performance for delivery, handover and payment shall be Frankfurt am Main. If the catering takes place outside Frankfurt am Main, the statutory provisions shall apply with regard to the place of performance.

XIV. Jurisdiction

The exclusive jurisdiction, including for bills of exchange, cheque and document processing, is Frankfurt am Main. FPS Catering may sue the client at his usual place of jurisdiction.

If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law, a special fund under public law or if the customer has no general place of jurisdiction in Germany, the exclusive place of jurisdiction - also for bill of exchange, check and document proceedings - is Frankfurt am Main. FPS Catering may sue the client at his general place of jurisdiction. If the client does not fall under any of the cases mentioned in sentence 1, the legal provisions apply.

XV. Severability clause

Should individual provisions of these terms be or become invalid, this does not affect the validity of the remaining terms and the contracts on which they are based. The invalid provision shall be replaced by an effective one, which comes closest to its intent and purpose.

Frankfurt am Main, July 2023