

General sales conditions for deliveries of Brigitte-Küchen • H. Frickemeier Möbelwerk GmbH

(last update January 2019)

§ 1

In general - Scope

- I. Our sales conditions are applicable only; any contrary conditions of the purchaser or conditions differing from our sales conditions are not accepted by us, unless, we have expressly agreed to them in written. Our sales conditions are also applicable, if we do effect the delivery to the purchaser without any reservation, although we know that there are conditions contrary to our conditions and/ or differing from our conditions.
- II. Any agreements that are made between us and the purchaser for the purpose of the execution of this contract, are to be determined in written in this contract
- III. Our sales conditions are only applicable towards traders in the sense of HGB [German Commercial Code].
- IV. Our sales conditions will also be applicable with any future business with the purchaser.

§ 2

Offer, documents of offer

- I. If the order is to be qualified as an offer according to § 145 of German Civil Code (BGB), we will be able to accept this within 4 weeks.
- II. We reserve the propriety right and copyright as regards illustrations, drawings, calculations and other documents; they must not be revealed to third parties. This applies to such written documents in particular that have been specified as „confidentially“; before revealing them to third parties, the purchaser needs our expressive approval in written.
- III. The features and quality of the delivered merchandise and its technical data result from the technical documents and descriptions enclosed to our catalogues and/ or contained therein, and become expressly an integral part of the contract as regards the accordance with the contract of the merchandise delivered. Any deviations of these quality features are only admissible, if they have been expressly agreed upon in written in the corresponding contract. Oral agreement made by our employees at site are not legally binding and/ or do not become integral part of the contract, if they are not confirmed in written by us.

§ 3

Prices and conditions of payment

- I. Unless anything else has been stated on the order confirmation, our prices are to be understood "ex works".
- II. The legal value added tax is not included in our prices; Invoicing for deliveries within the EU is effected without Value Added Tax, if the invoice recipient possesses a valid tax identification number at the time of invoicing.
- III. The deduction of discount requires a special written agreement.
- IV. Unless anything else has been stated on the order confirmation, the purchase price is due net (without deduction) within 8 days from date of invoice. Four weeks after receipt of invoice, the purchaser will be behind schedule with payment according to the legal conditions of BGB [German Civil Code] – without any further reminder. Any deviations of this arrangement are only agreed upon, if a deviating date of payment is expressly confirmed on the order confirmation. If the purchaser delays his payment, we will be authorized to request default interests of him amounting to 9 %-points exceeding the respective base lending rate per annum in the sense of § 247 BGB. Decisive date for the reception of invoice is – in case of any doubts- the signature on the delivery note. If we are in the position to prove a more important damage caused by delay, we will be authorized to claim for it. The purchaser, however, is authorized to prove that there is no damage at all or a damage being substantially inferior.
- V. The purchaser has the right for accumulation only, if his counterclaims have been declared to be legally binding, indisputable or if they have been accepted by us. Furthermore, he is only authorized to effect a lien only, as far as his counterclaim is based on the same contractual relationship.

§ 4

Delivery time

- I. The beginning of the delivery time stated by us requires the clarification of all technical questions.
- II. There may only be a delay in delivery on our part due to such reasons we are responsible for ourselves. Any delay in delivery due to the organisation of our suppliers and/ or sub-contractors does not mean a delay on our part.
- III. If the purchaser grants us an appropriate extension of time, after we have already been in default, he will be authorized to withdraw from contract after the fruitless expiry of this extension of time.
- IV. The observation of our delivery obligations requires that the purchaser meets his obligation duly and in time.
- V. In case of default of acceptance of the purchaser or in case of any other obligations to co-operate on part of the purchaser, or if the purchaser infringes any other obligations to co-operate, we will be authorized to claim for the damage resulting thereof to us, including any other possible additional expenses. In such a case, even the risk of an accidental loss or an accidental aggravation of the merchandise purchased is transferred to the purchaser – at the moment when he is in default of acceptance.

§ 5

Transfer of risks

- I. Unless anything else has been stated on the order confirmation, the delivery is to be understood ex works.
- II. Provided that the purchaser asks for a transport insurance, we will cover the delivery by a transport insurance, the costs of which have to be born by the purchaser.

§ 6

Warranty for defects

- I. The right for warranty for defects of the purchaser is based on the fact that he duly met his obligations to check the goods and to make a reproof according to §§ 377, 378 of German Commercial Code (HGB), i.e. the goods delivered are to be checked for deficiencies on site. These deficiencies have to be announced to us in written within a term of reproof of 8 days. If we do not receive the written claim within this term, it is understood that the goods have been delivered free of defects.
- II. In case of a deficiency of the merchandise purchased we are responsible for, we have the right to remove the defects or to deliver a replacement according to our choice. In case of removal of defects, we are obliged to bear any expenses required for the removal of defects, in particular transport costs, travelling costs and material costs, as far as these will not increase

unacceptably due to the fact that the merchandise purchased was taken to another place than to the place of fulfilment. We will only be obliged to take over the transport costs to the purchaser's place, however not to bear the costs for the transport from the purchaser to the end customer. Insofar as a defect for which we are responsible also affects refrigerators, dishwashers, stoves, ovens, microwaves, fume hoods, ceramic or induction hobs, sinks or mixer taps, the purchaser is entitled and obliged to assert this defect directly against the appliance manufacturer insofar as our warranty rights exist against the appliance manufacturer. Only in the event that the appliance manufacturer refers the purchaser to the expiry of our warranty rights may the purchaser assert his existing warranty rights against us within the warranty period still running between us and him in accordance with the following Clause IV. In the event that, in deviation from the foregoing provisions, we, as a gesture of goodwill, agree to remedy obvious, i. e. not concealed, defects asserted outside the aforementioned 8-day period, the purchaser shall bear the transport and assembly costs.

- III. In case we are not prepared/ not in a position to repair the defects/ to make a replacement, or such a repair of defects and/ or replacement is not successful, the purchaser has the right – according to his choice – either to withdraw from contract, to reduce the purchase price or to claim for damages.

- IV. The warranty period is 24 months, to be calculated from the date of transfer of perils. This period is a limitation period which also applies to claims for replacement of consequential harms caused by a defect, as far as no claims resulting from unauthorized act are asserted.

§ 7

Assurance of title

- I. We reserve the title to the merchandise purchased until receipt of all payments regarding the purchase agreement. With any behaviour of the purchaser not in accordance with the purchase agreement, particularly with default of payment, we will be authorized to take back the merchandise purchased. Taking back the merchandise purchased does not mean a withdrawal from contract on our part, unless we have expressly declared that in written. The garnishment of the merchandise purchased by us, however, does always mean a withdrawal from the purchase agreement.
- II. In case of several deliveries made by us to the purchaser, our title refers to all the merchandise delivered by us still being the property of the purchaser, not depending on the payment of the corresponding invoice.
- III. The purchaser is obliged to treat the merchandise purchased carefully; he is particularly obliged to insure that merchandise at his own expense against any damages arising from fire, water and theft according to the replacement value. If any maintenance and inspection works are necessary, the purchaser will have to have done them at his own expense.
- IV. With garnishment or any other involvement of third parties, the purchaser has to inform us in written immediately so that we will be able to assert the claim according to § 771 German Code of Civil Procedure (ZPO). As far as the third party is not able to reimburse the judicial and extra-judicial costs of a claim according to § 771 ZPO, the purchaser will be liable for the loss occurred to us.
- V. The purchaser is entitled to resell the merchandise purchased in the due course of business; he, however, assigns any claims to us amounting to the total amount of invoice that will occur, not depending on the fact, if the merchandise purchased will have been resold without being processed or after having been processed. As regards the collection of this claim, the purchaser will be entitled to that even after the assignment. Our entitlement to collect the claim by ourselves remains untouched by that. We, however, undertake not to collect the claim, as long as the purchaser does meet his obligations for payment resulting from the sales revenues, he does not delay payment and if there particularly is no application for the opening of insolvency proceedings or composition proceedings, or if he has not stopped payment. If, however, that is the case, we will be able to demand the purchaser to announce to us the claims assigned and their debtors, to make any statements necessary for the collection, to hand over to us any corresponding documents and to inform the debtors (third party) on the assignment.
- VI. The processing or transformation of the merchandise purchased by the purchaser is always done by us. If the merchandise purchased is processed with other objects not belonging to us, we will acquire the co-ownership of the new thing in the ratio of the value of the merchandise purchased compared to the other processed objects at the time of processing. To the items produced by processing the same will apply as to the merchandise purchased delivered under reserve.
- VII. If the merchandise purchased is mixed with other objects not belonging to us, so that it cannot be separated from them any more, we will acquire the co-ownership of the new thing in the ratio of the value of the merchandise purchased compared to other mixed objects at the time of mixing. If the mixing is done in a way the thing of the purchaser is to be regarded as main object, it is agreed upon that the purchaser assigns to us a proportional co-ownership. The purchaser keeps the herewith generated sole ownership or co-ownership gratuitously for us.
- VIII. The purchaser also assigns to us the claim for the securing of our claims against him that will arise due to the combination of the merchandise purchased with a real estate towards third parties.
- IX. We undertake to release the guaranties (deposits) we are entitled to on request of the purchaser in this respect, if the value of our guaranty (deposit) exceeds the securing guaranty (deposit) by more than 20%; the choice of the guaranty (deposit) to release is up to us.

§ 8

Place of jurisdiction / place of fulfilment / applicable law

- I. If the purchaser is merchant in the sense of the code of commercial law, our business location in 32120 Hiddenhausen will be place of jurisdiction. We are also entitled to bring an action against the purchaser at his place of residence.
- II. Unless anything else has been stated on the order confirmation, our business location is place of fulfilment.
- III. If the parties of contract are domiciled inland, the regulations of the BGB will be applicable. If the purchaser is domiciled abroad, the law applicable for the contract will be UN law. Place of jurisdiction will be court at the supplier's domicile.

§ 9

Place of jurisdiction / place of fulfilment / applicable law

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- II. Unless anything else has been stated on the order confirmation, our business location is place of fulfilment.
- III. If the parties of contract are domiciled inland, the regulations of the BGB will be applicable. If the purchaser is domiciled abroad, the law applicable for the contract will be UN law. Place of jurisdiction will be court at the supplier's domicile.

§ 9

Data protection

Personal data collected and processed in connection with the business relationship between us and the purchaser shall be treated by us in compliance with the applicable data protection regulations.

§ 10

Severability clause

The ineffectiveness of one of the determinations mentioned above does not refer to the effectiveness of the other regulations. It is replaced by the parties by such an effectiveness as close as possible to the original intention in the framework of the legal requirements.