

**General supply and payment terms and conditions**

**1. Scope of application**

- 1.1 These supply and payment terms and conditions only apply to companies as defined in § 14 of the German Civil Code.
- 1.2 We shall make all our deliveries and perform all our services exclusively in accordance with these general supply and payment terms and conditions. We do not accept any conditions imposed by the customer that contradict or that deviate from these conditions, unless we have explicitly agreed to the validity of these.
- 1.3 Our general supply and payment terms and conditions apply to all future transactions, even if they are not been explicitly specified in individual cases.
- 1.4 The points listed below are authoritative for all deliveries and services, in the order listed:
- The general supply and payment terms and conditions detailed below.
  - The Tegernsee conventions, if the supplied wood is foreign timber and sawn timber
  - The trading conventions of the members of the Gesamtverband Deutscher Holzhandel e.V. (Association of German Timber Traders) when any sawn timber obtained from Europe and overseas is being sold.
  - In those cases where we also install, position or assemble construction units or perform building services, the provisions in the German Construction Contract Procedures (VOB) Part B and Part C, as set out in the current version, will also apply.

If the customer is not aware of the conventions mentioned above then we shall immediately send these to him on request.

**2. Quotations and orders**

- 2.1 Our quotations are subject to confirmation and are without obligation, if they are not expressly stated as being binding.

- 2.2 Our written confirmation is required for an order to come into force. If reference is made to any drawings in the confirmation of order then these are required for concluding the contract.
- 2.3 For immediately executed orders, our invoice or delivery note are deemed to constitute a written order confirmation.
- 2.4 If the customer has any objections to the details contained in the order confirmation, then he must raise these immediately. Otherwise the contract will proceed in accordance with the order confirmation.

### **3. Delivery**

- 3.1 Only approximate delivery times are stated, provided nothing else has been agreed, and may be extended - notwithstanding our rights arising from customer default – by a period of time equivalent to any delay by the customer in performing his obligations arising from this or any other order.
- 3.2. The delivery is also made then at the customer's risk, if exceptionally we agree to bear the freight charges. If we choose the method of dispatch, the route of shipment or the person responsible for the shipment, we will only be held liable if it is demonstrated that we have acted with gross negligence when making the relevant choice.
- 3.3. We are entitled to make a reasonable number of partial deliveries.
- 3.4. The customer may only cancel the contract because of delivery deadlines not being met if, prior to cancellation, he has stipulated an appropriate period of grace with a threat of cancellation and the delivery does not take place within that period of grace
- 3.5. If the delivery is delayed, we then accept liability, in the case of gross negligence, for any damage caused to the customer by the delay. In the case of ordinary negligence our liability for any damage caused by the delay is restricted to an amount of compensation in respect of each full week of delay of 0.5% per week, with a maximum of 5% of the price of that part of the consignment which could not be used for purpose because of the delay. In addition, we accept liability for any damages caused by delay due to acting with ordinary negligence only from the point in time when an appropriate period of grace fixed by the customer has elapsed.

### **4. Prices**

- 4.1. The prices stated in the order confirmation are the authoritative prices. These apply to the individual order but not to repeat orders. The prices are valid, as long as nothing else has been agreed, from the Ötisheim plant. Prices do not include packaging, freight, insurance, customs, unloading, installation and VAT.

- 4.2. If we encounter cost increases, after conclusion of the contract and until the execution of the order, that could not have been foreseen, such as increases in wages or the cost of materials or because taxes or custom dues have been introduced or risen significantly, we are entitled to adjust our prices in line with the changes and without inclusion of an additional profit.

5. **Payment**

- 5.1 If nothing else has been agreed, the goods are to be paid for in cash when received.
- 5.2 We are entitled to charge interest for late payment and interest payable after the due date, in the case of traders, of 8% above the basic rate of interest. Any further claims for damages caused by delays remain unaffected by the charging of interest.
- 5.3 Bills of exchange and cheques are only accepted as payment with express agreement and never in lieu of payment. Any out of pocket expenses and costs arising because of this are to be paid by the customer.

6. **Rights in the case of a decline in assets**

- 6.1 If we become aware that protests regarding bills of exchange are lodged at the customer, debt enforcement measures have been initiated against him or there is some other form of worsening of his asset situation, then we are entitled to demand advance payment of accounts receivable that are not yet due or to require security for these receivables, and to refuse any delivery by us in the meantime. If the customer is unable to meet our requests despite us setting an appropriate period of grace with the threat of cancellation, then we are entitled to cancel or claim compensation for damages if we so choose.
- 6.2 We are also entitled to forbid the customer from reselling the goods and - subject to any further rights from the retention of title – to retrieve goods not yet paid for at the customer's expense.

7. **Set-off and retention**

The customer may only exercise set-off with an undisputed or legally valid counter claim. The customer is only allowed to enforce a right of retention if it is based on the same contractual relationship and if the underlying counter claims are undisputed or have been established as being legally valid.

## **8. Notification of defects**

- 8.1. The customer is obligated to immediately examine each delivery consignment when accepting or receiving it and to immediately give notification of any defects that can be identified, at the latest within 5 working days. The examination has to include the type of wood, the quality, the quantity, the weight, the classification, the level of dampness and, in the case of artificially dried goods, the internal composition of the wood. If the customer is himself not able to carry out a such as comprehensive examination then he has to call in a third party expert for this purpose. In the case of a direct business, the customer has to pass these obligations to his consumer. The examination has to cover the entire delivery lot. Any hidden defects must be notified immediately upon discovery. Otherwise the delivery is deemed to be agreed and accepted.
- 8.2. The customer is obligated to ensure that there is evidence of the defects and to give us the opportunity to check them. If the customer does not comply with this obligation or if he misses the deadline for claims, the delivery is deemed to be approved. The same applies if the delivery has already been wholly or partially processed or cannot be completely validated any longer for any other reasons.

## **9. Quality defects**

- 9.1. If we are responsible for a defect then we are entitled to carry out a so called supplementary performance, which involves removing the defect if we choose or delivering a replacement item that is without defect. If we refuse to carry out any supplementary performance, or if this fails or is unacceptable to the customer, the customer may cancel the contract if he chooses or demand a reduction in the price of the purchase.
- 9.2. The range of natural colour differences, natural structural differences and any other differences in a type of wood are part of the characteristics of wood as a natural product and these do not constitute defects.
- 9.3. If there is nothing otherwise agreed in writing regarding individual cases, then we shall not accept any guarantee for the quality of the item and also no guarantee of durability. A pre-requisite utilisation as provided for in the contract in accordance with § 434 clause 1 item 1 of the German Civil Code (BGB) can only be considered if there is a written agreement regarding this.
- 9.4. Any possible warranty claims available to the customer are prescribed 12 months after delivery or after the time the service has been performed. This does not apply if the law prescribes longer deadlines in accordance with § 438 clause 1 item 2 of the German Civil Code (construction and items for construction), in accordance with § 438 clause 3 of the German Civil Code (fraud) and § 479 of the German Civil Code (recourse by the entrepreneur).

## 10. **Claims for damages**

- 10.1. We are liable in the case of wrongful intent and gross negligence. In the case of ordinary negligence we are only liable if the matter relates to a breach of significant contractual obligations arising from the nature of the contract or if a breach of these contractual obligations would endanger the achievement of contractual purpose. In such cases though the claims for damages are restricted to any typically contractual and foreseeable damages. Otherwise, any claims for damages made by the customer relating to ordinary negligence are excluded, irrespective of legal foundation.
- 10.2. The above-mentioned restriction on the extent of liability does not apply in the case of claims arising from the Product Liability Law (Produkthaftungsgesetz) where life, body or health has been violated.
- 10.3. In the case of claims for damages arising from defects in quality or material, the limitation on the extent of liability are also not applicable if we maliciously do not disclose any defect or have given a guarantee on the quality of the item. The provision in paragraph 9.4 regarding prescription of warranty claims also applies to claims for damages arising from defects in quality or material.

## 11. **Reservation of title**

- 11.1 We reserve title to all goods delivered by us up until full payment of all accounts receivable (as well as balances) arising from the entire business relationship have been made. Cheques and bills of exchange receivable, as well as current account receivables, are included in these claims. If liability arising from a bill of exchange is established in connection with payment, then the reservation of title only expires when our claim to the bill of exchange is excluded.
- 11.2 The retraction of delivered goods by us does not constitute a termination of the contract, unless this is explicitly stated by us.
- 11.3 The customer is entitled, subject to revocation allowed for good cause, to dispose of the deliverable as part of a proper business transaction. In the case of a resale the customer will assign to us all claims arising from the resale, especially any demands for payment but also other claims relating to the resale, amounting to the figure in the final invoice (inclusive of VAT). This applies irrespective of whether the deliverable has been resold with or without further processing.

The customer is entitled by us, up until a revocation permitted for good cause, to collect the accounts receivable that have been assigned in a fiduciary capacity. We are also entitled for good cause, to notify garnishees of the assignment of accounts receivable on behalf of the customer. The power of the customer to collect any amounts due expires when the assignment to garnishees has been notified. In the case of revocation of the power to collect we can demand that the customer notifies us of the amounts outstanding that have been assigned and its debtors, and provides all details required for collection, hands over the associated documents and informs the debtors about the assignment.

- 11.4. The customer always processes and reconfigures the delivered goods on our behalf. We are regarded as being the manufacturer under the terms of § 950 of the German Civil Code (BGB) without having any further obligation. If the deliverable is processed with other items that do not belong to us, then we will then acquire joint ownership of the new item which will equate to the value of the delivered goods in relation to the value of the other processed items, at the time of processing. Otherwise, the same applies to the items processed as it does to the items delivered under reservation.

- 11.5. If the deliverable is blended with or mixed in with other items that do not belong to us, then we will acquire joint ownership of the new item equating to the total invoice amount for the delivered goods in relation to the value of the other blended or mixed items, at the time of the mixing or blending. If the mixing or blending is carried out in such a way that the customer's item is to be considered as the main item, then it is agreed that the customer transfers to us a proportionate share of the joint ownership. The customer will keep in safe custody the sole ownership or the joint ownership for us.
- 11.6. We are obligated to release the securities of our choice to which we are entitled, if requested by the customer, when the realisable value of these securities exceeds the value of the claims to be secured by more than 20 %.
12. **Place of performance, place of jurisdiction, applicable law.**
- 12.1. The place of performance for supply and payment is, for both parts, exclusively the registered office of our company.
- 12.2. The place of jurisdiction for all legal disputes arising from the contractual relationship, as well as in relation to its origin and to its validity, is either the District Court of Maulbronn or the Regional Court of Karlsruhe in respect of both parts. We can institute legal proceedings also at the registered office of the customer if we choose.
- 12.3. The contractual relationship is subject to German Law.