

# General Terms and Conditions of Delivery and Payment of JACOB JÜRGENSEN WOOD GmbH

## Validity

The hereinafter mentioned general terms and conditions of delivery and payment (GTC) apply for all purchase transactions and deliveries of Seller to commercial customers, unless specifically agreed otherwise in writing or confirmed by Seller. For current business relations and follow-up orders, the general terms and conditions of delivery and payment also apply for all transactions, if Buyer makes orders by telephone, fax or by e-mail without Buyer having to restate the validity of the terms and conditions of delivery and payment. Different terms and conditions, especially Buyer's general terms and conditions of purchase, are rejected herewith.

## Offers and Conclusion of Agreement

Offers of Seller are without engagement, unless expressly specified as binding. Samples are regarded as approximate exhibits regarding quality, dimensions and colour.

Delivery and settlement of the contract will be based exclusively on the contents of the order confirmation of Seller and/or the purchase order or Contract of Sale. Verbal agreements (amendments, alterations and/or subsidiary agreements) shall only be legally binding with written confirmation of Seller.

Should there be any definitions of commercially accepted trade terms in the order confirmation and/or the purchase order or Contract of Sale and/or the previous correspondence, the International Commercial Terms (INCOTERMS in the authorized version) and the recommendations, published by the Hamburg Chamber of Commerce, apply, unless they contradict these terms and conditions. If after conclusion of the contract, Seller is made aware of facts that signify that his claim to payment of the purchase price is at risk due to financial insolvency of Buyer, Seller may set a reasonable deadline to Buyer to arrange either for payment in instalments or surrender of securities, at the discretion of Buyer. If Buyer refuses both options or if the deadline has expired, Seller may terminate the contract and may also request immediate payment of all open invoices for deliveries which were already carried out.

## Delivery, Passing of Risk and Delay

The risk and all costs shall pass to Buyer on delivery of the goods by Seller at the agreed place of delivery, which is to be defined according to the INCOTERMS. The goods are to be accepted by Buyer at the place of delivery, unless expressly otherwise agreed.

Buyer undertakes to insure the goods against all ordinary transport and storage risks upon acceptance until payment of the complete purchase price. Buyer undertakes to assign to Seller upon request all claims against the insurer in the event of claim.

Increased or short deliveries of up to 10 % of the agreed quantity are acceptable. For short deliveries the invoice value will be reduced accordingly, for increased deliveries it will be increased accordingly.

The delivery period will be reasonably extended - also in the event of default - in the event of force majeure and unforeseen obstacles that took place after conclusion of the contract and were beyond Seller's responsibility (in particular malfunctions, strikes, lockouts or disruptions in traffic routes), unless these circumstances prove to considerably influence the time of delivery. This also applies if the circumstances arise with the suppliers of Seller and/or their respective suppliers. Seller shall inform Buyer immediately about the occurrence and the cessation of such obstacles.

In the event of the afore-mentioned circumstances Seller is entitled to terminate the purchase contract or to fulfill the contract only on a viable scale or to reasonably extend the time of delivery for the total amount or that part affected by the circumstances. Buyer may require a statement from Seller, if they wish to terminate the contract or intend to deliver within a reasonable period. In the event that Seller does not make a statement immediately, Buyer may cancel the purchase contract. In this case all compensation claims of Buyer are excluded.

In the event of late delivery Seller is only liable for own negligence and that of their vicarious agents. Seller's suppliers and suppliers thereof are not Seller's vicarious agents. On Buyer's demand Seller shall assign to Buyer possible claims against Seller's suppliers.

## Payment

Unless otherwise agreed, the purchase price is due upon receipt of the goods without deductions. Payment shall be made free of all charges exclusively to the bank account mentioned in Seller's invoice.

Payment instructions, bills of exchange and cheques shall only be accepted upon special agreement and as payment only, not in lieu of performance. All charges shall be at the expense of Buyer. Renegotiation and prolongation are not regarded as performance. Incoming payments will initially be charged up against the expenses occurred to Seller, then against interest accrued and only afterwards against the purchase price claim. In the event of a protested cheque or bill of exchange Seller may request immediate cash payment against return of the cheque or the bill of exchange. If Buyer has deposited further bills of exchange not yet payable, Seller is further entitled to immediate cash payment against return of these bills of exchange.

If, after Buyer's failure to pay on due date, Seller demands payment from Buyer without success or a cheque or bill of exchange is not accepted at maturity date, Seller may take back the goods delivered under retention of title which have not fully been paid. The repossession does not constitute a termination of the contract. In the event that Buyer was aware of a defect or other reasons for objection upon conclusion of the contract, Buyer can neither refrain from payment of the purchase price nor withhold payment. The same applies if Buyer does not notice the defect and/or the reason for objection due to gross negligence, unless Seller has

concealed them fraudulently or has taken over a warranty for the quality of the goods.

In the event of damages or other objections, payment may only be refused or withheld to a reasonable extent. In case of dispute, an expert to be named by the Chamber of Industry and Commerce, competent for the Buyer, shall determine the amount of payment and, at his discretion, shall also determine the allocation of costs of his service.

Buyer can only set off the costs with counterclaims which have been accepted by Seller or determined by legal ruling.

## Defects

The broad spectrum of natural differences in colour and structure as well as other differences that may occur within a type of wood characterize wood as a natural product and do not represent a reason for complaints or liability.

The accepted goods are to be examined by Buyer immediately with regard to quantity and quality. Obvious defects are to be notified by Buyer within 7 days in written form. Otherwise Sections 377, 378 German Commercial Code apply. In the event of substantiated complaints, Seller is entitled to supply replacement deliveries, if reasonable with regard to the defects and the substantiated interests of Buyer.

Seller's claims regarding defects of quality are subject to a period of limitation of twelve months, unless longer periods are assigned by law in Sections 438 para. 1 No. 2, 479 para. 1 and 634 a) para. 1 No 2 German Civil Code.

Buyer may only assert claims for damages within the limits of the clause "General limitation of liability".

## General Limitation of Liability

Buyer's claims for damages and reimbursement of expenses incurred, in particular due to infringement of contractual obligations and wrongful acts, shall be excluded, regardless of their legal basis.

This does not apply if Seller has taken on a warranty or a risk of supply. Buyer's claims for damages according to the Law on Liability for Defective Products shall furthermore remain unaffected and in the event of gross negligence on the part of the Seller, causing injuries to life, body or health and when material contractual obligations are violated. Claims for damages in the event of violation of material contractual obligations are limited to foreseeable damages which are typical under the contract, unless Buyer is liable due to gross negligence or injuries to life, body or health.

## Retention of Title

Seller retains title to the goods until the entire amount of the purchase price has been paid. Regarding goods delivered in connection with an existing business relation, Seller retains title until all his claims against Buyer from the business relation, including future claims to arise from contracts concluded at the same time or later, are settled.

Regarding payments with cheques and/or bills of exchange the retention of title only expires after respective payment, unless it continues to be valid after the above said.

Within the scope of proper conduct of business Buyer is entitled to process and/or sell the goods delivered under retention of title.

In the event of resale of conditional goods, Buyer assigns to Seller who accepts the assignment the claims arising from the resale already now in the amount of the value of the conditional goods with all additional rights and with priority with respect to other creditors. The value of the conditional goods is the invoiced amount of the Seller unless barred by adverse third party claims. Buyer is not entitled to dispose otherwise of the conditional goods, in particular by way of mortgage or chattel mortgage. The same applies for dispositions of claims Buyer has assigned or has to assign to Seller according to the aforementioned conditions.

Seller authorizes Buyer, subject to revocation, to collect the assigned claims and will not disclose the assignment, as long as Buyer keeps up payment, also with respect to third parties. Upon Seller's request, Buyer must name the debtors to the assigned claims and notify them of the assignment; Seller is entitled to also notify the debtors of the assignment.

Buyer must inform Seller regarding debt enforcement proceedings of third parties on conditional goods or assigned claims immediately after Buyer was notified.

In the event of suspension of payment and/or a motion to initiate insolvency proceedings the right to resale and disposal of the conditional goods expires as well as the authorization to collect assigned claims. In the event of a protested cheque or bill of exchange the direct debit authorization also expires. The rights of the liquidator remain unchanged.

Should the value of the granted securities exceed the outstanding claims of Seller by a total amount of more than 20%, he is obliged to retransfer or release the goods at his discretion.

After payment of all outstanding claims of Buyer from the business relation, the property of the conditional goods and the assigned claims pass to Buyer.

## Delivery Place, Competent Court and Jurisdiction

The relationship between the seller and the buyer shall be governed exclusively by the law applicable in the Federal Republic of Germany, excluding the UN Sales Convention. If both parties are merchants, Hamburg is deemed the place of performance and the agreed place of jurisdiction. The seller is free to pursue his claims through the ordinary courts. In doing so, he can also select the place of jurisdiction at the buyer's registered office. If disputes arising from the contractual relationship regarding the quality of the delivered products cannot be settled amicably, the Hamburg Friendly Arbitrage (Hamburger Freundschaftliche Arbitrage) is also agreed as the arbitration procedure.