

Sales, Delivery and Payment Conditions

I. General, Quotation, Delivery conditions,

1. Quotations, deliveries and other services shall be provided exclusively on the basis of the following conditions, insofar these are not expressly amended by a written agreement between the parties. These conditions shall be recognised by the issue of an order or by acceptance of the delivery. These conditions shall apply to all future business relationships even if they have not yet been agreed.
2. Our business conditions apply exclusively; any contrary or differing conditions of the purchaser shall not apply unless we had expressly agreed their validity in writing.
3. If any individual conditions of this contract or its constituents are ineffective this shall not affect the effectiveness of the remaining regulations. Within the boundaries of what is reasonable the parties are obliged to act in good faith and to replace an ineffective provision with a provision that is equal in its financial success insofar no significant amendment is made to the contents of the contract; the same shall apply if circumstances that require regulation are not expressly regulated.

II. Quotations, Conclusion of contract, Performance

1. Our quotations included in current and future sales media, such as individual, verbal quotations and/or written quotations are subject to change without notice, i.e. they are only to be understood as a request to submit a quotation. Any agreements, information and advice given by our staff, in particular statements of conditions and guarantees, require our written confirmation to be legally binding. A statement of guarantee shall only be assumed by us in exceptions and must be expressly identified as such.
2. The order of the contractual partner is a binding offer. We can accept this offer according to our choice within 14 days by the despatch of a written order confirmation (including by fax) or in that we consign the ordered goods to the contractual partner within this period of time. The above shall also apply to supplements or amendments.
3. If the price and quality of the goods have not been determined, the price and product range lists of the vendor shall apply in accordance with the stipulations of the purpose of the goods known to the vendor.
4. Any errors in our sales brochures, price lists, quotation documents or any other documentation can be adjusted by us, without the possibility of us being made responsible for any loss resulting from these errors.

III. Prices, Payment conditions, Letters of credit

1. In the absence of any separate agreement the prices apply ex works excluding freight, insurance, pallet costs, costs for covers and any other consignment costs. Statutory value added tax is not included in our prices; the statutory amount valid on the invoicing date will be shown separately. Insofar pallet costs are invoiced such

costs shall be credited on return of the pallets. The credit for returned pallets is restricted to the number of pallets delivered.

2. If delivery is carried out later than 4 months after conclusion of the contract any price rises that occur in the meantime shall be added to the agreed price. Such increases can always be added in the event of continuing obligations and towards trade companies and the self employed.
3. Insofar no agreement to the contrary is made all payments shall be made in the currency of the registered office of the vendor without any deductions and free of transaction charges and settled within 30 days of the invoice date.
4. If the purchaser does not meet its payment obligation on the due date for payment we can - without abandoning any rights or claims to which we are entitled - carry out the following in accordance with our selection:
 - give notice of termination of the contract or discontinue any further deliveries to the purchaser; or
 - charge the purchaser interest on the amount outstanding of 8% above the base interest rate until final payment has been made in full. For legal transactions with end consumers the interest rate shall be 5% above the base interest rate. The purchaser is entitled to substantiate that no or minimal loss has been incurred as a result of the payment arrears.
5. Any significant deterioration in the financial circumstances of the purchaser that would considerably lower the creditworthiness of the purchaser on the application of benchmarks usual in banking shall entitle the vendor - with other rights reserved - to carry out any orders that have not yet been completed step by step against payment in advance. Under the same circumstances payment claims of the vendor from the purchaser shall become immediately due for payment.
6. Bills of exchange and cheques shall only be accepted on account of payment after a special agreement and only on charging all drawing and discount expenses. Payments shall only apply as effective once the amount is finally available in an account of the vendor.
7. Any offsetting of counter claims against our claims for payment is excluded unless the counter claims are undisputed or legally binding.

We are entitled to offset counter receivables of the purchaser with receivables to which Johannes Brandenburg GmbH & Co. KG, Brandenburg Holzfaserstoffe GmbH & Co. KG, Goldspan GmbH & Co. KG, der HVT Hobelspanverarbeitung GmbH and HVW Hobelspanverarbeitung GmbH & Co. KG are entitled. Furthermore we are entitled to offset our receivables with counter receivables to which the purchaser is entitled from one of the companies specified above.

8. The following applies to contracts with companies: the purchaser shall only be entitled to a right of retention with respect to claims that are legally binding, undisputed or that are recognised by us. In the event of defects to part of the delivery the purchaser can only withhold the payment of the amount that corresponds to the value of the defective delivery or performance. We are entitled to avert rights of retention - including the defence of non-performance of contract - by securities that can also be provided by a bank guarantee. The security shall be deemed to be provided when the contractual partner is in default of acceptance at the latest.

9. Payments shall be applied to settle the oldest invoice items respectively with reference to the accumulated interest on arrears and costs and in the following order: costs, interest, principle claim.

**IV. Delivery of the goods
(Delivery quantity, place of delivery, period of delivery, delays, packaging).**

1. The goods quantity delivered can differ from the quantity ordered within the context of commercial practice. The quantity delivered shall be invoiced. Our quantity and weight notes or those of our supplier plant if the delivery is carried out directly from there shall be authoritative for determining the quantity of goods delivered. Part deliveries are permissible.
2. The period of delivery shall begin on the date of order acceptance but not before the receipt of any advance payment agreed.
3. Periods of delivery and delivery dates shall extend appropriately in the event of force majeure, industrial action, official actions through no fault of ours domestically and abroad, through power cuts that are no fault of ours as well as due to unforeseeable and serious operational disruptions that are no fault of ours and restrictions at the vendor including such that are attributable to an impairment of the agreed raw material supply insofar such hindrances are a verifiable result of considerable influence on the production or delivery of the delivery item. This shall also apply if these circumstances occur at an upstream supplier. In the event of a delay to delivery the purchaser is entitled to reject the acceptance of the delayed delivery after the expiry of an appropriate deadline to be set by the purchaser in writing that must however be at least two weeks. Furthermore the purchaser shall have no claims against the vendor in such cases.
4. In the event performance is delayed or delivery is impossible any claims to compensation to which the purchaser may be entitled shall be limited merely to the extent to which compensation can be demanded for the foreseeable loss. The limited liability described above shall not apply insofar the reason for the delay in performance or the impossibility of the performance relates to intent or the gross negligence of one of the statutory representatives or vicarious agents of the vendor.
5. If despatch is delayed at the request of the purchaser, the costs incurred by storage at the plant of the vendor shall be invoiced to the purchaser beginning from the month after notification of readiness to despatch however 0.5% of the invoice amount for each month.

However the vendor is entitled to dispose of the delivery item in another manner after setting an appropriate deadline and after the expiry of this deadline and to supply the purchaser with an appropriately extended deadline.

6. The place of performance for all obligations arising from this contractual relationship is our registered office.
7. The purchaser shall dispose of transport packaging at its own expense unless the goods are delivered on our vehicles and are unpacked immediately. We will only take over the disposal of the sales packaging of the purchaser on express agreement to do so and for corresponding payment. On request the acceptor shall provide us evidence of disposal for the purposes of the provisions of the German Packaging Regulation.

V. Transfer of risks

1. For all deliveries the risk of accidental destruction and the accidental deterioration of delivery items shall be transferred to the purchaser at the point in time at which the goods are transferred from the vendor to the first freight driver including if part deliveries are made or if the vendor has assumed other performance e.g. despatch costs or carriage and installation. In the event of carriage by employees of the purchaser or by a transport company that is associated with the purchaser the transfer of risks shall take place at the start of the transport procedure.
2. At the request of the purchaser the consignment can be insured by the vendor at the cost of the purchaser against theft, transport, fire and water damage as well as against any other insurable risks.
3. If despatch is delayed by circumstances for which the vendor is not responsible the transfer of risks to the purchaser shall occur on the day of readiness to despatch. However the vendor is obliged to effect any insurance demanded by the purchaser at the request and costs of the purchaser.

VI. Reservation of title, Securities

1. The vendor retains title to the goods until the purchaser has paid all the outstanding receivables owed to the vendor irrespective of whether the receivables relate to the goods or to any other reasons. The purchaser shall store the reserved goods separately or shall label the reserved goods clearly. Any onward disposal, use, processing or mixing of such goods can only take place in regular business transactions and can only take place insofar the customer meets their payment obligations. Any pledging as collateral or assignment as security of such goods is prohibited.
2. In the event the goods delivered are processed or if they are combined or mixed with external material the vendor shall acquire co-ownership of the newly created item in relation to the value of the reserved goods to the value of the new item created by processing, combination or mixing. Both the value of the reserved goods and the value of the processing at the point in time of the processing, combination or mixing shall be authoritative for the valuation. The purchaser shall be acting for the vendor in the event of any processing without acquiring any claims whatsoever against the vendor due to the processing. The purchaser is obliged to keep the reserved goods safe carefully for the vendor.

In the event of further disposal of the new product by the purchaser in place of the product the purchase price receivable pro rata in accordance with Paragraph VI Figure 2 Sections 1 and 2 to which the purchaser is entitled shall be assigned by way of security. The purchaser shall already assign this pro rata purchase price receivable to the vendor now and the vendor hereby accepts this assignment.

3. If the purchased goods are sold on by the purchaser unprocessed the purchaser shall now assign all receivables to which the purchaser is entitled from such disposals with all ancillary rights to the vendor in the amount of the receivable of the vendor. The vendor hereby accepts this assignment now. After the assignment the purchaser shall be empowered to collect the receivable. We reserve the right to collect the receivable ourselves as soon as the purchaser cannot meet its payment obligations correctly and falls into payment arrears or if insolvency proceedings are opened against the assets of the purchaser. In this case we can demand that the purchaser discloses assigned receiv-

ables and its debtors to us, provides all information necessary for collection, hands over the accompanying documents and informs the debtors about the assignment.

4. If the purchaser falls into payment arrears or if the purchaser does not meet its obligations arising from reservation of title the vendor can set an appropriate deadline for performance or supplementary performance. After unsuccessful expiry of this deadline the vendor shall be entitled to withdraw from the contract and to take back the delivered goods. In addition the purchaser shall send an itemisation of all the reserved items still in the possession of the purchaser, shall remove these items and surrender these items to the vendor. After issuing a warning with an appropriate deadline the items can be utilised as best as possible by sale on the open market taking into account the price calculated by the purchaser. Furthermore in this case at the demand of the vendor the purchaser shall inform in writing the debtor of the receivable assigned to the vendor, the purchaser shall issue the vendor the information necessary for the vendor to assert its rights, shall submit and send documents and shall surrender bills.
5. If the securities exceed the receivables of the vendor by more than 20% the vendor shall be obliged to release the excess amount of the securities to which the vendor is entitled to the purchaser at the request of the purchaser.
6. The purchaser shall inform the vendor in writing immediately if any receivables assigned to the vendor are enforced on reserved goods or goods that are co-owned by the vendor as well as through assignment in advance. The purchaser shall notify the enforcing body and the enforcing creditors without delay that the goods are still reserved goods or that the goods are co-owned by the vendor or that the receivable has been assigned to the vendor.
7. If the legal effectiveness of the reservation of title is dependent on a special registration or on any other additional pre-conditions the purchaser is obliged to meet these pre-conditions or to inform and support the vendor accordingly.
8. If the reservation of title is not authorised in the recipient country the purchaser is obliged to make a security of equal value available.

VII. Guarantee, Compensation, Liability

1. Insofar the purchaser is a businessman he shall check the goods received directly after receipt and should any defects be found he shall report this to us in writing immediately. Should the purchaser omit to carry out this procedure the goods shall be deemed to be accepted and approved. An exception to this procedure shall be allowed in the event a defect is concerned that could not be detected during the check. Such a case must also be reported to us in writing immediately after detection. Furthermore § 377 HGB (German Commercial Code) of the Federal Republic of Germany shall apply here.
2. In the event of defective deliveries the vendor shall provide subsequent performance whereby the vendor shall decide, while taking the interests of the purchaser in this case into account, whether subsequent performance shall be provided by reworking or redelivery. The purchaser is obliged to accept subsequent performance. If the subsequent performance fails or is unacceptable the purchaser shall be entitled to choose to withdraw from the contract or to demand an appropriate reduction of the purchase price. Subsequent performance shall be deemed to have failed after the second unsuccessful attempt to provide subsequent performance fails. Subsequent performance shall be

unacceptable to the vendor particularly if subsequent performance is only possible with disproportionate costs.

3. Any guarantee claims are excluded if the purchaser disposes of the goods further, processes the goods further or blends the goods after the vendor has discovered a defect or should have discovered a defect unless the purchaser proves that the disposal, further processing or blending was necessary in order to avoid greater loss.
4. Any claims to damages or a reimbursement of expenses of the purchaser (hereinafter: claims to damages) are excluded regardless of the legal reason in particular claims from the breach of contractual obligations, tort as well as any other criminal liability. The same applies to any claims from fault on the conclusion of the contract. In particular we are not liable for any damage that is not incurred on the delivery item itself such as loss of profit and other financial losses of the purchaser.

This shall not apply insofar as liability is mandatory e.g. in accordance with the German Product Liability Act, in cases of intent, gross negligence of the proprietor or of the management bodies or senior employees, for injury to life, the person or to health or for the breach of important contractual obligations (cardinal obligations). Any claim to damages for the breach of important contractual obligations is however limited to contract-typical foreseeable damage insofar as there is no intent or gross negligence or due to liability for injury to life, the person or to health.

5. All contractual claims against the vendor shall lapse - insofar this is authorised by statute - one year after the delivery of the item insofar no regulations to the contrary are made. The limitation period of one year shall not apply:
 - to losses that relate to a deliberate or grossly negligent breach of obligations by the vendor, its statutory representatives or its vicarious agents,
 - to losses resulting from injury to life, the person or to health that relate to a culpable breach of obligations by the vendor, its statutory representatives or its vicarious agents,
 - to losses that relate to a culpable breach of an important contractual obligation or the breach of contract-important obligation of the vendor; however in these cases liability is limited to contract-typical and foreseeable damage;
 - in cases in which liability applies in accordance with the German Product Liability Act for faults in goods for personal injury or damage to property to privately used objects.
6. If the object of the purchase contract is only categorised according to certain items in this case our liability shall also be determined in accordance with the aforementioned regulations; any liability independent of culpability is excluded.
7. Any exclusion or limitation of liability shall also apply to our statutory representatives and vicarious agents.
8. The clauses above are not intended to amend the burden of proof according to statute or to case law.

VIII. Data storage

Through these General Terms and Conditions the purchaser is informed that we can process personal and company related data acquired in the course of the business connection in accordance with the Data Protection Act of the Federal Republic of

Germany.

IX. Court of jurisdiction, applicable law

1. In the event of any disputes arising from this contractual relationship with contractual partners that are businessmen, a legal entity under public law or a separate estate under public law the suit shall be filed at the court responsible at the headquarters of the supplier or at the branch that carried out the delivery. We are also entitled to file a suit at the headquarters of the purchaser or at another court that can be responsible in accordance with national or international law. The same shall apply if the purchaser does not have any general court of jurisdiction in Germany or if the place of residence or usual domicile in Germany is not known at the point in time a suit is filed.
2. The law of the Federal Republic of Germany applies to these Sales, Delivery and Payment conditions and to all legal relations between the vendor and the purchaser. The application of standard UN purchasing law (CISG/UNCITRAL) is excluded.