

1. Scope of Application

These General Conditions of Sale, Delivery and Payment shall apply to the sale of goods by Mosser Holzindustrie GmbH and Mosser Leimholz GmbH.

2. General Provisions

- a) Unless otherwise stipulated in these General Conditions of Sale, Delivery and Payment, agreements with and deliveries to business customers shall be effected on the basis of and with reference to the *Österreichische Holzhandelsusancen (Austrian Usages for the Trade with Timber)*; in case of exports, such agreements and deliveries shall also be subject to the required export licences. The seller shall not be obliged to object to any contrary conditions of the purchaser in order to render them ineffective. Such contrary conditions shall only become binding upon the seller's express written consent and such effectiveness shall only apply to one stipulated business transaction.
- b) All offers made by the seller are subject to change and without obligation and shall only become binding upon confirmation of order as well as upon backing up the business transaction by a bad debts insurance. Should any bad debts insurance in force as of the time of order confirmation be cancelled during the time period between the issue of the order confirmation and the time the goods are delivered (cancellation or limitation of any limit), the seller shall be entitled to rescind the agreement unilaterally and the purchaser shall not be entitled to assert any claims in relation thereto.
- c) Unless the seller receives a written objection by the purchaser within one day from the date of order confirmation, the order confirmation shall be deemed fully confirmed by the purchaser. If the purchaser makes any changes to its confirmation, the seller shall be entitled, in its sole discretion, to consider the agreement confirmed or wholly or partially terminated.
- d) Should written objections render parts of the order confirmation inapplicable, the order confirmation shall only be affected to the extent such objections are applicable. The validity of the remaining parts of the agreement covered by the order confirmation shall remain unaffected.
- e) Rights resulting from the agreement may only be assigned to third parties upon the seller's written consent.
- 3.** In case of war, riots, strike, fire, thunderstorms and other unforeseeable events beyond the seller's control and in general without the seller's fault with direct influence on the business transaction, such as interruptions of transport and operations, cost increases, the seller shall be entitled to delay delivery without any obligation to pay damages or to rescind the unfulfilled part of the contract without any further legal consequences.
- 4.** The seller shall be entitled to assert its claims established by a delivery for a period of 3 years. Until full settlement of all claims the seller may have, including any interest, charges and costs, the seller retains full

title to the goods and the goods may not be encumbered in any way. This retention of title shall remain in force without prejudice to the storage location of the goods, to whether they are processed or re-sold. In case the goods delivered subject to retention of title are processed, the seller shall acquire a co-ownership to the product in accordance with the ratio of the value of the processed raw materials (extended retention of title). If the purchaser re-sells goods subject to a retention of title or products produced with materials subject to retention of title, the purchaser shall be obliged to assign to the seller its claims resulting from such re-sale.

In case of any delay in payment by the purchaser, the seller shall be entitled to immediately recover the goods subject to retention of title without being obliged to rescind the contract. For as long as the retention of title is in force, the purchaser may not sell, encumber, lend or otherwise dispose of such goods subject to retention of title and the purchaser shall be obliged to inform the seller via registered mail of any attachment or threatened attachment of such goods by third parties and the purchaser shall be liable for any costs the seller incurs in order to avert such attachment.

Furthermore, the purchaser shall be liable for any damage or destruction of the goods subject to retention of title, irrespective of whether such damage was caused by the purchaser or a third party. The transfer of risk to the purchaser shall be effected upon delivery of the goods. In addition, the purchaser undertakes to obtain sufficient and adequate insurance cover for the goods against all risks for the time the seller retains the title to such goods and to indemnify and hold harmless the seller to such extent. In case of any re-sale in breach of contract, the purchaser assigns to the seller as security its claims against third parties resulting from such re-sale; such assignment shall remain in force until all claims the seller may have against the purchaser are settled.

5. Warranty and Damages

Deliveries effected by the seller shall be deemed to be in good order and accepted by the purchaser if the sale was to be "as intended" or "as accepted" or the purchaser or its representative are present when the goods are delivered or handed over. Otherwise, goods delivered by the seller shall be deemed to be in good order and accepted by the purchaser unless the seller receives a written complaint stating exact reasons, broken down by package (please indicate package number) within 7 working days after delivery of the goods.

Any complaints or disputes shall not entitle the purchaser to refuse the acceptance of the delivered goods. Any proposals made by the seller as to how to settle any complaints are always without obligation and shall never be deemed to be an acknowledgement of the complaint. After an amicable determination of the rightfulness and of the extent of any complaint, the seller shall fulfil its warranty obligation in accordance with these General Conditions of Sale, Delivery and Payment within a reasonable period of time.

Provided the purchaser has complied with the purchase contract and in case the complaint is justified, the seller shall fulfil its warranty obligations concerning the defective goods and in its sole discretion by:

- a) substitute delivery;
- b) price reduction; or
- c) taking back the goods without any substitution.

No direct or indirect damages will be paid. The seller shall not be liable for any interior damage not detectible from the outside which comes to light during or after processing.

Any further claims of the purchaser, especially compensation for work, material, loss of profit, claims from any purchase of goods in replacement or similar claims shall be excluded. Any deviations of up to 10 per cent from the quantities ordered shall not constitute a reason for a complaint.

Any complaint concerning a delivery or any demand for a reduction of the purchase price due to a reduced value shall not entitle the purchaser to withhold payment applicable to the part of the purchase price relating to the part of the delivery not objected to or to the price remaining after deduction of the alleged reduction in value. Any non-compliance with the conditions of payment shall release the seller from any warranty obligation.

In addition, the seller shall be entitled to rescind the contract in whole or in part with regard to the part of the delivery not yet effected without further notice. This shall not entitle the purchaser to any claims whatsoever.

6. Delivery Periods

The seller shall be entitled to effect and invoice partial deliveries within the delivery period. The agreed date of delivery means that the goods are ready for dispatch; this shall also apply to deliveries that are free of charge. In any case, the seller shall be entitled to a reasonable grace period.

If, in case of an "agreement on call" the seller does not receive such call in time, the seller shall be entitled, after sending written notice to the purchaser, to invoice the goods as of the end of the delivery period (at the "ex works" price) or to rescind the contract in whole or in part. Any costs, reductions in quantity or quality arising as a result of any obstruction of the delivery or of the purchaser refusing to accept the goods shall be borne by the purchaser.

7. The goods shall be transported at the purchaser's risk, also in case of deliveries that are free of charge (CPT).
8. Any stated weights are without obligation for the seller and are only provided for the purpose of freight calculation.

9. Payment terms shall be deemed observed if the full amount of the invoice is credited without reservation to the seller's account stated on the invoice. In case of payment by cheque, this shall be the time of clearance without reservations by the bank. The purchaser shall not be entitled to assign to third parties any counterclaims it may have against the seller.

It shall also not be entitled to set-off any counterclaims from one contract with counterclaims from another contract. In case of changing exchange rates, any disadvantages from the non-observance of the payment term, such as exchange differences, shall be exclusively borne by the purchaser.

In case of a delay in payment by the purchaser, irrespective of whether such delay incurred due to the purchaser's fault or not, the seller shall be entitled to charge default interest amounting to 14 percent p.a. from the date the payment was due, without being obliged to send a dunning letter first. In addition, the purchaser shall be fully liable for any incurring dunning and collection charges, including any retained attorney's fees - also for out-of-court measures.

10. Any payments effected by the purchaser shall first be credited against interest and costs (including out-of-court dunning and collection costs) and then against the principal. If the purchaser does not observe the conditions of payment, especially if the purchaser does not pay the partial invoices for partial deliveries, the seller shall be entitled to rescind the contract concerning the remaining part of the delivery not yet effected in whole or in part.

11. Any rescission of contract shall only be allowed upon the seller's written consent. In case of any cancellation of contract by the purchaser, the seller shall be entitled to demand compensation for the damage incurred plus the loss of profit or to demand a cancellation fee amounting to 15 percent of the gross contract value.

12. In case insolvency proceedings are instituted against the purchaser, the contract shall be deemed to be terminated. Should such termination of contract be impossible due to mandatory legal provisions, the parties agree that any further delivery shall be subject to advance payment by the purchaser.

13. National Austrian law shall be deemed agreed upon, such law shall at all times be applicable to any legal transactions. Unless the seller prefers to have recourse to the relevant competent court, the claimant submits to the regional court in Scheibbs in case of any dispute arising out of this legal relationship according to 104 JN (Law on Court Jurisdiction). However, the seller shall be entitled, in its sole discretion, to have recourse to the arbitration court of the Vienna Commodity Exchange.