

General Terms and Conditions of Sale and Delivery

Mercer Timber Products GmbH

The Mercer Timber Products GmbH located in Saalburg-Ebersdorf specializes in the industrial processing of wood, the sale of roundwood, sawn timber and generic wood products as well as sawn timber production. In the following general Terms and Conditions of Sale and Delivery (the "Terms"), Mercer Timber Products GmbH is referred to as "we" and the contract partner is referred to as "customer" and/or "Customer".

1. Scope

- 1.1. These Terms and Conditions of Sale and Delivery apply exclusively to entrepreneurs, legal persons of public law or public special funds in the sense of § 310 Paragraph 1 BGB. Terms and conditions of the customer differing from our Terms of Sale and Delivery will be recognized only if we expressly agree to the validity in writing.
- 1.2. These terms and conditions of sale and delivery shall also apply to all future business transactions with the purchaser, as far as it relates to legal transactions in related species.
- 1.3. These Terms and Conditions of Sale and Delivery apply exclusively. Other terms and conditions are not accepted. The inclusion of other terms and conditions in the contract is rejected.

2. Offer and conclusion of contract, intended use

- 2.1. Our offers are always subject to change and not binding. If several offers concern the same subject, the offer most recently submitted shall apply. An order by the customer, which contains changes, is considered a new offer, which must be accepted by us.
If an order by the customer is considered as an offer according to § 145 BGB, we can accept it within two weeks. The customer receives an order confirmation from us via e-mail / fax. The contract is concluded upon the receipt of the order confirmation.
- 2.2. Our merchandises can be used for diverse applications. We assume no liability for a certain suitability of the merchandise for a specific purpose. The customer is responsible for checking whether the merchandise is suitable for the intended use.

3. Prices and terms of payment

- 3.1. Unless otherwise agreed upon in writing, our prices apply ex-mill plus packaging, freight, customs duties, any other incidental costs incurred and sales tax at the statutory rate. If no sales tax is incurred, the customer shall immediately notify us and provide proof. The invoice will only be issued without sales tax if the appropriate evidence has been provided to our conviction.
- 3.2. The payment of the purchase price must be made exclusively on the account specified in the invoice. The deduction of cash discount is only permissible with a special written agreement.
- 3.3. Unless otherwise agreed, the purchase price must be paid within 30 days after delivery. Delay interest will be calculated on arrears in the amount of 9% above the respective base interest rate.
The right to a higher damage from delay is reserved.
- 3.4. If no fixed price agreement has been made, we reserve the right to price changes due to demonstrably changed wage, material and distribution costs for deliveries made four months or later after conclusion of the contract. This does not apply to the case in which we are at fault of delayed delivery.
- 3.5. If an application for the opening of insolvency proceedings is filed after conclusion of the contract, if such an application is rejected for lack of funds or insolvency proceedings are opened, we are entitled to a two week notice period to withdraw from the contract.



- 3.6. If after conclusion of the contract, we become aware that the financial circumstances of the customer have deteriorated significantly, we are entitled to request an advance payment of the entire invoice.

4. Offsetting, Right of Retention

- 4.1. The customer is only entitled to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.
- 4.2. The customer is entitled to offset only with an undisputed or legally valid claim.

5. Delivery Time

- 5.1. The commencement of the delivery time stated by us presupposes the timely and proper fulfilment of the obligations of the buyer. The non-performance of the contract shall remain reserved. Exceeding the delivery date will only lead to a delay if we have received a postponement of at least 10 days from the customer; otherwise, only if a delivery date has been expressly guaranteed.
- 5.2. In the event of subsequent changes to the contract, the delivery period is extended accordingly.
- 5.3. Partial deliveries are permitted as per announcement.
- 5.4. We are liable in cases where we unintentionally or grossly negligently caused delivery delay, we shall be liable for a default of 3% of the delivery value, but not more than 15% of the delivery value for each full week of delay.
- 5.5. More or less deliveries of the agreed quantities of goods will be considered as contractually agreed up to a deviation of 10%. In such cases, however, we shall charge the purchaser the actual delivered quantity of goods and the buyer shall pay the actual delivered quantity of good.
- 5.6. In the case of force majeure or other unforeseeable, exceptional circumstances (e.g. Operating fault, strikes, lockouts, official interventions, energy supply difficulties and delays in the delivery of essential raw materials and building materials), the delivery period is extended by the duration of the delay by this event.

6. Transfer of risk on dispatch

- 6.1. If the product is dispatched to the customer on the request of the customer, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer upon dispatch to the customer, at the latest when leaving the mill / warehouse. This applies regardless of whether the shipment of goods is dispatched from the place of fulfilment or who bears the freight costs.
- 6.2. If the goods are returned to us by the customer, the return takes place at the risk and expense of the customer. Insurance protection by us does not exist in this case. The customer is obligated to sufficiently insure the return.

7. Delay of Acceptance

If the customer is in default of acceptance or if he culpably violates other cooperation obligations, we are entitled to demand compensation for the damage incurred, including any extra charges. We reserve the right to make further claims. If the above conditions are met, the risk of accidental loss or deterioration of the purchased goods will pass to the customer at the time the customer has been in default.

8. Retention of Ownership

- 8.1. The delivered goods are reserved goods, i.e. we retain the title to the goods delivered until the full payment arising from the delivery contract. This also applies for all future deliveries, even if we do not expressly refer to them. We are entitled to take back the purchased good if the customer behaves in breach of contract.



- 8.2. The purchaser is obligated, as long as the ownership did not pass to treat the reserve goods with care. In particular, he is obliged to adequately insure these goods to their replacement value, at his own expense, against theft, fire and water damage. As long as the ownership has not yet passed, the customer shall inform us immediately in writing if the delivered goods are seized or exposed to any other interventions by third parties. If the third party is not in a position to reimburse us the judicial and extrajudicial costs of a claim, the customer is liable for the loss incurred by us.
- 8.3. The customer is entitled to resell the reserved goods in an ordinary course of business. The customer assigns the claims against the purchaser from the resale of the reserved goods to us in the amount of the agreed final invoice amount (including sales tax). This assignment applies regardless of whether the reserved goods was sold with or without further processing. The customer shall remain authorized to collect the receivable even after the assignment. Our authority to collect the claim ourselves remains unaffected. However, we will not collect the claim as long as the customer meets his payment obligations from the revenue received, does not delay payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments are settled.
- 8.4. The processing or transformation of the reserved goods by the customer is always carried out in the name of and on behalf of us. In this case, the customer's right of the reserved goods continues to be subject to the transformed item. If the reserved goods are combined with other objects not belonging to us, we shall acquire joint ownership to the new item in proportion to the objective value of our reserved goods to the other processed objects at the time of the processing. The same applies in case of mixing. If the mixture is carried out in such a way that the object of the customer is to be regarded as the main item, it is agreed that the customer transfers proportional co-ownership to us and keeps the resulting sole ownership or joint ownership on our behalf. To safeguard our claims against the customer, the customer also assigns to us those claims which arise from the combination of the reserved goods with a property to a third party; we accept this assignment.
- 8.5. We commit ourselves to issue the products subject to the retention of title at the customer's request, provided their value exceeds the claims to be secured by more than 20%.

9. Warranty and notification of defect as well as recourse

- 9.1. The customer must always observe that wood is a natural material. The characteristics and properties of this natural substance are to be assessed by the customer in his intended use. The characteristic as a natural substance may result in differences in structure, texture, color, etc. in wood products of the same type of wood. This does not constitute a defect. With regard to the quality of the goods, only our product description according to the offer applies.
- 9.2. Warranty rights of the customer presuppose that the customer properly fulfilled his duties under § 377 HGB. The goods must be investigated immediately after receipt for defects and deficiencies. Otherwise the goods according to § 377 HGB is deemed to be approved.
- 9.3. If, despite all care exercised, the delivered goods have a defect that already existed at the time of the transfer of risk, we will, at our option, repair the goods or deliver substitute goods, subject to timely notice of defect. We shall always be given the possibility to supply the product within a reasonable period of time (at least 4 weeks). Recourse claims remain unaffected by the above provision without limitation. We are entitled to deny remedy of the defect until our payment claims from the actual transaction have been fulfilled. Before any return of the goods, the issue should be discussed with us.
- 9.4. If the subsequent performance fails, the customer can - without prejudice to any claims for damages - withdraw from the contract or reduce payment.
- 9.5. Claims for defects do not exist in the case of insignificant deviations from the agreed upon condition, in the case of only minor impairment of usability, natural wear and tear, or in the event of damage resulting after the transfer of risk as a result of faulty or negligent handling, excessive stress or special external influences not assumed under the contract. If the customer or third party changes or makes modifications to the product, there are no deficiency claims for this and the resulting consequences. If



necessary over the ended pattern forming an average quality. We do not assume any quality or durability guarantee, unless this is agreed individually.

- 9.6. Claims of the customer due to the expenses necessary for the purpose of the fulfilment of, in particular transport, travel, labor and material costs are excluded to the extent that the expenses increase because the goods delivered by us was subsequently transferred to a place other than the branch of the customer has been spent, unless the transfer meets the intended use.
- 9.7. Recourse claims of the customer against us shall exist only to the extent that the customer has not entered into any agreements with his customer beyond the legally compulsory claims for defects. In addition, paragraph 6 shall apply mutatis mutandis to the extent of the customer's recourse against the supplier.

10. Damages

- 10.1. Claims of the customer against us for damages are excluded. This applies equally to claim for damages on the basis of warranty claims, indemnity claims and other claims for damages.
- 10.2. The above exclusion of liability shall not apply to claims arising from injury to life, body or health, which is based on an intentional or negligent breach of duty on our part or an intentional or negligent breach of duty by a legal representative or vicarious agent.

11. Limitation

- 11.1. Claims for defects shall become statute-barred 12 months after delivery of the goods to our customer. For claims for damages in the case of deliberate and gross negligence as well as for the injury of life, body and health, which is caused by a deliberate or negligent breach of duty by the user, are based on the statutory period of limitation.
- 11.2. As far as the law under § 438 Paragraph 1 No. 2 of BGB (construction and construction materials), § 479 Paragraph 1 of the German Civil Code (Recourse Claim) and § 634a paragraph 1 of the German Civil Code ("Baumendgel"), these periods shall apply.

12. Data Protection, Confidentiality

- 12.1. The customer agrees that the order-related data is stored and processed by us. Of course we will comply with the provision of data protection.
- 12.2. The customer and we commit ourselves to all the information resulting from the business relationship, in particular with regard to pricing and costing, use intention of the goods, operational activities and scope of the other, secret, even after the end of contract. The confidentiality obligation shall not apply in the extent that we are obliged to make disclosure for legal or fiscal reasons.

13. Miscellaneous

- 13.1. This contract and the entire legal relationship between the parties are subject to the law of the Federal Republic of Germany under exclusion of the UN Convention (CISG).
- 13.2. Place of performance and place of jurisdiction for all disputes arising from this contract is our business headquarter, unless indicated otherwise in the order confirmation.
- 13.3. If any of the above clauses is ineffective and/or incomplete, the validity of the remaining clauses remain unaffected.
- 13.4. Changes to existing agreements between us and the customer shall require the written form.

As of April 2017

