

§1 General points

1. These terms and conditions of business form are integral part of all quotations and contracts covering the seller's supply of goods and services to business customers within the meaning of article 14 of the German Civil Code (BGB), and likewise apply to all current and future business transactions. These conditions are to be accepted no later than at the moment in which the buyer takes delivery of the merchandise or service.
2. They also apply to consultation services that are not subject to a separate consultation agreement.
3. All deliveries of wood shall likewise be subject, unless otherwise stipulated in these terms and conditions, to the customary practices affecting the timber trade, with particular reference to the 1985 edition of the "Tegernseer Gebräuche" code of practice, along with all appendices and the corresponding annex. Familiarity with this text is assumed. If this is not the case, a copy of the document can be supplied on request.
4. Conditions deviating from the terms of this agreement – with particular reference to the buyer's terms and conditions of purchase – only apply if confirmed in writing by the seller.
5. The buyer consents to the seller keeping records of the buyer's company and personal details in accordance with the stipulations of the German federal law on data protection (Bundesdatenschutzgesetz).

§2 Quotations Conclusion of the agreement – Prices

1. The seller's quotations are non-binding, unless otherwise stated. Quotations are supplied subject to goods remaining unsold.
2. Orders are considered binding if they are (1) confirmed in writing by the seller or (2) fulfilled immediately upon receipt of the order and/or delivered according to schedule. The invoice then functions as the order confirmation.
3. Unless otherwise stated, prices are quoted ex-works, subject to value added tax (VAT) at the applicable rate and free on board truck, excluding packing and transport costs. For the period of 10 working days prices are considered binding for the seller.
4. Any freight reimbursements agreed shall lapse in the event of a substantive deterioration in the financial circumstances of the Buyer, in particular if attachments or other enforcement measures are taken against it or insolvency

proceedings are opened on its assets.

5. If carriage-paid delivery is agreed, shipping shall be at the risk of the buyer.
6. In the event of cost increases that are beyond the seller's control (in particular general increases in the cost of labor and/or materials), the seller will have the right to effect a reasonable increase in price if delivery is to take place at least four weeks after conclusion of the contract or later and in the case of continuing obligations. A change in the value-added tax rate will always result in a corresponding price adjustment. A price adjustment in respect of non-merchants on account of cost increases that are beyond the seller's control will only be possible in the case of continuing obligations or if the agreed delivery date is at least four months after conclusion of the contract.

§3 Delivery and transfer of risk

1. Delivery times and deadlines are approximate indications and are subject to timely delivery by the supplier's own contractors, provided delay is not subject to action on the part of the supplier. The buyer shall only be entitled exercise its right to claim in this respect after the seller has been granted a reasonable deadline extension of at least eight working days.
2. Partial deliveries in reasonably-sized lots are permitted, and must be accepted.
3. Delays in the delivery of goods or services resulting from force majeure or other circumstances that make such delivery difficult or impossible, with particular reference but not limited to strikes, lockouts, natural disasters, action by government authorities and traffic disruption, including events that affect the seller's own suppliers, will not suppose grounds for claims, even if delivery dates or deadlines are binding on the seller. The seller will then be entitled to delay delivery of the goods and/or services by a reasonable time, in accordance with the duration of the circumstances concerned.
4. The seller will issue notification, at the earliest possible opportunity, of the beginning and end of such circumstances. The buyer undertakes to declare, at the request of the seller and within a reasonable time, whether it wishes to withdraw from the agreement on the grounds of delay and/or seek compensation, or if it wishes to continue with the delivery. The must, at the seller buyer's request, immediately declare whether it wishes to withdraw or accept delivery once the delay has been dealt

with. If the seller does not declare promptly, the buyer is allowed to withdraw. Claims shall be subject to clause §6 covering limitations on liability and contractual claims.

5. The seller shall only be liable for delays in delivery of goods or services if such delays are due to action on its part or that of its employees or agents, but not that of its own suppliers or subcontractors. The seller nevertheless undertakes to represent the buyer in the event of any outstanding claims against these suppliers or subcontractors.
6. In the event of failure to observe the period of grace set in accordance with Number 1, the buyer may withdraw from the contract or demand compensation. The claim for compensation shall be limited to the reimbursement of proven additional costs (covering purchase). The covering purchase shall assume that at least three comparative offers have been obtained. Any further claims for compensation are precluded unless founded on gross culpability.

The seller will not pay compensation for failure to perform as a result of slight or normal negligence. For gross negligence and intent the seller will only be liable to merchants if its legal authorized representatives or managerial staff are culpable or if other vicarious agents have breached principal or cardinal duties. In this case the liability will be limited to losses that were foreseeable at the time the contract was concluded.

7. Risk is transferred to the buyer, even if delivery terms are carriage-paid, at the moment in which the consignment is made ready for despatch or collected. Despatch shall be carried out by the method that the seller considers most efficient. The terms "delivery to the site of installation" and "delivery to warehouse" both refer to delivery without unloading, and assume that the place of delivery is accessible via a road suitable for heavy goods vehicles. Waiting times are not billed. If the vehicle needs to leave the access road on the instructions of the buyer or party receiving the delivery, the buyer shall be liable for all and any loss or damage so resulting.
8. If unforeseen circumstances arise, as defined in clause 3, resulting in considerable changes to the financial value or contents of the delivery, or which considerably affect the seller's business operations, the agreement is to be adapted accordingly by the parties acting in good faith. If this is not economically viable, the seller shall be entitled to withdraw from the agreement. The seller must notify the buyer immediately of such a situation, even if an extension of the delivery deadline has already been agreed to.

§4 Terms of payment

1. Each consignment is to be billed using an invoice bearing the date of despatch. This also applies to
2. Unless otherwise agreed or established, the purchase price is to be paid strictly net and without discount within 30 calendar days of the invoice date, provided there are no outstanding invoices on the account. If discounts are offered, these apply only to the value of the consignment itself, and not to freight, handling charges or packing costs.
3. Bills of exchange can only be accepted subject to special agreement with the seller and on account only, subject to all and any costs arising. If payment is made by cheque, it shall not be regarded as complete until the cheque has cleared.
4. If the buyer is in arrears with due payments, penalty interest shall be paid in the amount to be paid by the seller to its bank for credit facilities utilized, but at least 5% - if the buyer is a merchant, at least 8% - above the base rate pursuant to section 247 BGB (German Civil Code), unless the buyer proves that a lesser loss. The seller retains the right to assert a greater loss.
5. In the event of delayed payment or protested cheques or bills of exchange, the seller shall be entitled to supply all future consignments against cash on delivery only. All outstanding accounts will then fall due and all amounts previously paid by bill of exchange or cheque must be settled in cash or by bank guarantee immediately upon return of the uncashed bills and cheques. The legal provisions of article 286 ff of the German Civil Code (BGB) shall otherwise apply in the event of delayed payment.
6. If the seller becomes aware, after entering into the agreement, of circumstances that place in doubt the buyer's ability to meet the seller's claims, the seller may deny the buyer the payment facilities detailed above and demand immediate settlement of all and any outstanding debts.
7. In the event of reasonable claims for defects, the buyer shall only retain payment to the extent that the amount involved corresponds to the agreed value of the defects concerned. All settlement by counter-claim must be carried out by uncontested or legally-established means.
8. The seller will have the right to assign its claims arising from business relations.

§5 Quality – Warranty – Claims for defects – Liability

1. Wood is a natural product. Its natural properties, individual differences and unique characteristics should therefore be taken into account. The biological, physical and chemical properties in particular should be taken into account when purchasing, processing and using the products concerned. The range of natural colours, structures and other changeable factors within each type of wood is part and parcel of wood as a natural product, and cannot be used as a basis for complaints or liability claims. The buyer should seek expert advice if need be.
2. The agreed quality of the merchandise shall be subject exclusively to the product description supplied by the manufacturer. Public statements, recommendations or publicity material issued by the manufacturer do not constitute part of the contractual description of the merchandise.
3. Unless otherwise agreed, the merchandise supplied shall consist of fresh-cut round timber. An agreed moisture level with respect to the wood shall be regarded as an approximate target figure, subject to the usual tolerances. The technical drying process is subject to the agreed level of moisture at the moment of removal from the drying kiln.
4. In order to fulfil the warranty conditions, the buyer must check each delivery immediately upon arrival for correct quantity, contractual quality and agreed specifications. Detected defects must be reported to the seller in writing within 14 calendar days of receipt of goods. The notification deadline is reduced to seven calendar days in the event of discolouration, unless it was agreed that the consignment should be supplied dry. No further claims can be submitted once the delivery has been accepted by the buyer, its employees or agents. If the timber is removed from its original place of destination, later claims are excluded. Concealed defects, or those that are detected during or after further processing, must be reported without delay, and in any case within ten working days. The buyer is responsible for providing evidence of the defect being detected on the date declared. Commercial transactions between traders are not subject to clauses 377 or 378 of the German Commercial Code (HGB). The buyer is to notify the seller as soon as possible upon being made aware of any warranty claim by an end-user.
5. The buyer must not resell, distribute, dispose of or otherwise process goods that are found to be defective, unless and until there is agreement on how to proceed or the items have been examined by an officially-recognised, suitably-qualified expert in the field.

6. In the event of a justified claim, the seller may, at its own discretion, either repair the defective item or replace it within a reasonable time. If the improvement fails even after the 2nd attempt, the buyer may demand a reduction in price or withdraw from the contract.

If the seller exceeds this deadline or fails to provide a repaired or replacement item within a reasonable time, or if such repair or replacement proves to be impossible, or if the seller refuses to carry out repair or provide a replacement, the buyer shall be entitled to withdraw from the agreement or demand a reduction in the purchase price. The buyer cannot withdraw on the grounds of minor defects. If the buyer then opts to withdraw from the agreement, there shall be no entitlement to any claim or claims arising from defects.

Defects of part of the delivered goods shall not establish a right to reject the whole delivery unless the partial delivery is of no interest for the buyer. Liability for defects that do not or only insubstantially impair the value of fitness for purpose shall be excluded. No objection may be made to deliveries of up to 10% more or less than the quantity ordered.
 7. If a defect is related to guaranteed specifications, the seller shall only be liable to the extent that the assurance relating to the characteristics concerned covers the buyer against secondary loss or damage arising from the absence of such specified characteristics. The mere citing of a DIN standard or EN norm does not imply that the characteristic concerned is guaranteed.
 8. Claims for defects expire after 12 months, unless article 438, sect. 1, subsection 2 of the provision covering construction works and site equipment (Bauwerke und Sachen für die Bauwerke) or article 479, sect. 1 of the provision on right to recourse (Rückgriffsanspruch) and article 634 a). sect. 1, subsection 2 of the provision of the German Civil Code (BGB) covering construction defects (Baumängel) apply.
 9. Claims for defects shall otherwise be subject to clause 6, covering limitations on liability and contractual claims.
- ### §6 Limitations on liability – contractual claims
1. Claims for loss or damage made by the buyer for whatever reason, but with particular reference to infringement of obligations arising from contractual undertakings and from unauthorised actions, are hereby excluded, unless otherwise stipulated below. This also applies to claims made by the buyer for subsequent loss or damage or for the recovery of costs.
 2. In the event of contractual infringement, the seller's liability shall be limited to the items typically associated with such loss and damage.
 3. Clauses 1 and 2 shall not apply in the event of contractual liability, including but not limited to product liability, misrepresentation and gross negligence or loss of life, injury or damage to health. There shall likewise be no change with respect to the buyer's duty to supply evidence of loss or damage.
 4. The terms of clauses 1 to 3 shall apply to the buyer accordingly.

§7 Retention of title

1. All delivered items (goods subject to retention of title) remain the property of the seller until all payments due to the seller, and all and any claims arising from the commercial transaction, have been met. These items must not, without the seller's consent, be pledged or used as security or collateral in any way.
 2. The merchandise subject to retention of title shall be further processed without charge to the seller and without this assigning manufacturer's liabilities to the seller under the terms of article 950 of the German Civil Code (BGB). The buyer shall then transfer joint ownership of the newly-created product to the seller in proportion to the invoiced value of the items concerned and that of other items being processed at the time. New products arising from such further processing shall be considered subject to retention of title.
 3. If the items supplied are mixed with moveable items in such a way that the considerable proportion constitutes a main item in its own right, the seller shall immediately transfer to the buyer proportional title to the new item concerned. The buyer shall in such cases immediately transfer to the seller all right to third-party claims for a value equal to that of the items that are subject to retention of title, along with all ancillary rights, authorising the seller, subject to revocation, to recover such debts. The seller hereby accepts this intention to transfer and provide authorisation.
 4. The buyer may only resell and/or further process items in the course of normal business, subject to the proviso that the debts defined in clauses 2 and 3 are actually paid to the seller. This includes situations where the buyer is paid by its own customers or applies a proviso whereby title is not transferred to the end-customer until the latter has met its debts due to the buyer. The buyer must make appropriate agreements with its own trading partners for this reason.
 5. The buyer is to keep the seller reliably informed of all and any seizures, embargoes or similar third-party claims or interventions. If the buyer falls into arrears with payments, the seller shall be entitled, without issuing further notice, to cancel unilaterally the buyer's right of ownership and demand the return of materials that have not yet been processed. All of the buyer's rights under the terms of clauses 2 to 4 shall expire immediately in the event of suspension of payments and/or insolvency proceedings. This does not apply to the rights of the insolvency administrator.
 6. The seller's exercising of its right to retain title does not require withdrawal from the agreement. The buyer does however undertake immediately to provide the seller or its appointed agents with access in order to examine the matter accordingly and place at its disposal the merchandise that is subject to retention of title.
 7. If the value of the security provided exceeds the total value of claims (or is reduced by an amount corresponding to payments and part-payments made) by more than 20%, the seller undertakes, at its own discretion, to transfer back or release security accordingly. Once all claims by the seller that arise from the business transactions concerned have been met, ownership of the merchandise that is subject to
- Should the buyer sell the reserved goods without having procured the above property rights for us, it

hereby assigns to the seller all claims accruing to it against customers or third parties from the resale. If reserved goods are sold unprocessed or after processing or combination with items that are not owned by the buyer, the buyer hereby assigns to the seller in full the claims arising from the resale. If the buyer sells reserved goods – after processing/combination – together with goods not belonging to the seller, the buyer hereby assigns the claims arising from the resale in the value of the reserved goods with all ancillary rights and ranking before the rest. The seller accepts the assignment. The buyer remains authorized to collect these claims even after assignment. This does not affect the authority of the seller to collect the claims itself; however, the seller undertakes not to collect the claims for as long as the buyer duly fulfills its duties of payment and other obligations. The seller may demand that the buyer discloses the assigned claims and their debtors to it, provides all information required for collection, delivers the relevant documents and informs the debtors of the assignment.

title, and all claims in its favour, pass to the buyer.

§8 Building services

1. All building services, including installation work, are subject to the General Terms and Conditions Applying to the Completion of Building Work (VOB, parts B and C), in the version in force at the time of entering into the agreement, provided the order is awarded by a contractual partner operating in the building sector.

§9 Place of performance –

**Legal jurisdiction
– Applicable law**

1. The place of performance and legal jurisdiction for the supply of goods and services and meeting of payments (including cheques and bills of exchange), and also for hearing any disputes that might arise between the parties (provided the buyer is a legally-established business or special organisation incorporated under public law), shall be the seller's main place of business. The seller shall however also be entitled to bring legal claims against the buyer at the latter's place of business.
2. The contractual relationship between the parties is governed exclusively by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

§10 Final provisions

If one or more of these contractual provisions should prove to be illegal or otherwise invalid, this shall have no effect on the validity of the other provisions. The parties will then agree on an alternative wording that takes into account the business relationship, the other terms and conditions and the mutual economic interests of the parties, and which comes as close as possible to fulfilling the original requirements of the contracting parties. The same applies to any items that are not covered. The contracting parties undertake to do their utmost to draw up such an alternative provision.