



General Terms and Conditions of Sale and Delivery of Ziegler Holzindustrie KG, Betzenmühle 3, D-95703 Plössberg

1. General / Scope of application

- 1.1 These terms and conditions of sale and delivery shall apply for contractual relations with businessmen within the context of their business operation and with government entities including special governmental estates.
- 1.2 All offers, sales, deliveries and services of Ziegler Holzindustrie KG shall be made on the basis of these terms and conditions of sale and delivery in current and future business relations. Contradictory or divergent terms and conditions of a buyer shall not become an element of the contract – irrespective of the time at which they become known to Ziegler Holzindustrie KG – unless Ziegler Holzindustrie KG expressly agrees to their validity in writing.
- 1.3 This shall also apply if Ziegler Holzindustrie KG executes the delivery unconditionally in awareness of contradictory or divergent terms and conditions of a buyer. The buyer's own general terms and conditions shall not therefore be valid, even if Ziegler Holzindustrie KG has not expressly contradicted this.
- 1.4 Supplementary to these general terms and conditions of sale and delivery, the customs and practices of the wood industry pursuant to section 346 of the German Commercial Code (HGB) shall apply, insofar as these do not contradict our terms and conditions. In particular, these are the Tegernsee practices as amended with their appendices and annexes.

2. Offer and conclusion of contract

- 2.1 All offers of Ziegler Holzindustrie KG are subject to confirmation and only apply upon undivided order. Ziegler Holzindustrie KG is not obliged to accept orders of the buyer.
- 2.2 The order at Ziegler Holzindustrie KG is a binding offer of the buyer. Ziegler Holzindustrie KG is entitled to accept this offer within 2 weeks by sending an order confirmation or to send the ordered delivery to the buyer within this period. The timely sending of the order confirmation or the ordered goods is sufficient for compliance with the period. Order confirmations shall be sent to the address indicated by the buyer in his order or in the case of a current business relationship to the last indicated address.
- 2.3 Only the services of Ziegler Holzindustrie KG cited in the order confirmation are an object of the contract. Ziegler Holzindustrie KG is entitled to charge for additional services separately.
- 2.4 The right to minor, material-induced deviations from the figures or descriptions underlying the order in catalogues, samples or showpieces, in particular colour or grain deviations is reserved. Such material-induced deviations do not represent any defects.

3. Prices

- 3.1 Unless resulting otherwise from the direct order and contractual documents with the buyer, the following regulations shall apply in respect to price changes:
- All listed prices are in EUROS
 - The prices are net prices and do not include the relevant applicable value added tax
 - All price indications apply ex works without packing, freight, insurance and customs duties
- 3.2 For deliveries within the EU, the buyer must indicate his VAT registration number. If a delivery is not subject to value added tax, the buyer must draw attention to this in good time and enclose the requisite validations.
- 3.3 Fixed prices are only deemed to be firmly agreed until the contractual delivery date.
- 3.4 Ziegler Holzindustrie KG reserves the right to increase the prices correspondingly after 6 weeks have passed since the conclusion of contract, if increased price factors occur after conclusion of contract (in particular on account of tax increases or wage, customs, transport, storage, material or raw material cost increases).

4. Terms and conditions of payment

- 4.1 Unless otherwise agreed, the invoices of Ziegler Holzindustrie KG must be paid within 30 days without deduction.
- 4.2 Ziegler Holzindustrie KG is entitled, despite differently worded provisions of the buyer, to initially offset payments against the latter's older debts. In this case, the buyer shall be notified about the type of the offset made. If costs and interest have already resulted, Ziegler Holzindustrie KG shall be entitled to initially offset the payment against the costs, then against the interest and finally the main claim.
- 4.3 A payment shall be deemed to have been made if Ziegler Holzindustrie KG can access the amount. In the case of cheques, the payment shall only be deemed to have been made once the cheque is irrevocably honoured. Bills of exchange and cheques shall only be accepted for the sake of performance; bills of exchange only after separate agreement.
- 4.4 If the buyer falls into arrears with a payment, all remaining claims shall also become due for payment immediately, without requiring a separate notice of default.
- 4.5 Ziegler Holzindustrie KG is entitled from the time point of the buyer falling into arrears to charge interest to the amount of 8% p.a. on the purchase price claim above the relevant basic rate of interest of the European Central Bank. Ziegler Holzindustrie KG is entitled to demand a higher rate of interest if it can demonstrate the accumulation of the same in respect to the buyer.

- 4.6 For all deliveries and services to buyers outside Germany, it is deemed to be expressly agreed that all costs for the legal prosecution, which arise for Ziegler Holzindustrie KG in the case of the buyer falling into payment arrears, both judicially and out of court, shall be at the expense of the buyer.
- 4.7 If Ziegler Holzindustrie KG becomes aware of circumstances, which call into doubt the creditworthiness of the buyer, in particular if a cheque is not honoured or the buyer stops his payments or if other circumstances become known, which call into doubt his creditworthiness, Ziegler Holzindustrie KG shall be entitled to demand corresponding advance payments or securities for goods not yet delivered.
- 4.8 Ziegler Holzindustrie KG is entitled to assign its purchase price claims from goods deliveries or from other deliveries and services to third parties.
- 4.9 The buyer is only entitled to offsetting, retention or reduction, also if notices of defect or counterclaims are enforced, if the counterclaims have been stipulated as legally valid or these are indisputable. However, the buyer is also entitled to retention on account of counterclaims from the same contractual relationship, unless the counterclaims involve payment oriented claims.

5. Delivery and passing of risk

- 5.1 Subject to another contractual agreement, the delivery ex works (EXW) from Ziegler Holzindustrie KG, Betzenmühle 3, D-95703 Plössberg is agreed. The risk shall pass over to the buyer once the delivered goods have left the works. Ziegler Holzindustrie KG shall not be liable for damage or loss during the transportation. This also applies if a carriage paid delivery has been agreed. The transportation shall always be on behalf of the buyer.
- 5.2 If the dispatch/collection of the goods is delayed as a result of circumstances for which the buyer is responsible, the goods shall consequently be stored after five working days have passed, calculated from the day of the notification of readiness of delivery, at the expense and risk of the customer.
- 5.3 Insofar as commercial clauses such as FOB, CFR, CIF etc. are used, these must be formulated pursuant to the relevant applicable Incoterms® of the ICC.
- 5.4 Extra or short deliveries up to 10% and normal minor dimensional tolerances are permissible and do not entitle the buyer to complaint. Partial deliveries are permissible to a reasonable extent and shall be invoiced separately.
- 5.5 The delivery dates and schedules of Ziegler Holzindustrie KG shall result from the order confirmation or from a separate notification. These delivery dates and schedules are approximate. Delivery dates always apply from order confirmation by Ziegler Holzindustrie KG onwards. Delivery schedules are basically deemed to be ex works – depending on the agreement. Ziegler Holzindustrie KG is entitled to reasonably extend or postpone delivery dates and schedules for reasons cited in points 5.6 and 5.7 as well as if other hindrances occur, which have not been brought about by at least grossly negligent conduct on the part of Ziegler Holzindustrie KG. Ziegler Holzindustrie KG shall inform the buyer of such a delay in the delivery at least one day before the original delivery date. The buyer is not entitled to any claims from such delays.
- 5.6 Ziegler Holzindustrie KG shall not be liable for delayed or impossible delivery as a result of force majeure (for example strike, fire, war, transport disruptions, theft etc.) or for reasons which are not in the sphere of influence of Ziegler Holzindustrie KG, such as owing to failure to complete necessary preparatory work in time on the part of the buyer.
- 5.7 Should the performance be hindered as a result of force majeure or for reasons which are not in the sphere of influence of Ziegler Holzindustrie KG, Ziegler Holzindustrie KG shall be entitled to cancel delivery commitments that are still open. This also applies if the hindrance to delivery results from delay or non-performance on the part of a subcontractor.
- 5.8 Ziegler Holzindustrie KG shall be liable for delay or impossibility of the delivery or a partial delivery for reasons other than those cited in points 5.6 and 5.7, to the extent that it has acted with at least gross negligence. The limitation of liability of point 8.1 shall apply.
- 5.9 Impossibility of delivery, in particular for reasons from point 5.6 and 5.7 entitles the buyer to withdraw from the contract. The buyer is also entitled upon delay by Ziegler Holzindustrie KG to withdraw from the contract, after allowing a period of grace of at least four weeks. If a divisible delivery is involved, the buyer shall nevertheless always be entitled to a corresponding partial withdrawal.
- 5.10 Insofar as Ziegler Holzindustrie KG is obliged from the contract to make an advance performance, the same can deny the delivery, if circumstances become apparent after conclusion of the contract, which call into doubt the buyer's readiness to perform, in particular if the commercial credit insurance company of the buyer cancels or significantly reduces credit limit or the credit limit is already exhausted, and hence the payment claim is jeopardized. The right to refuse performance shall not apply if the counter-performance is brought about or a security is provided for it.

6. Retention of title

- 6.1 Ziegler Holzindustrie KG shall retain ownership of the delivered goods until complete payment of all claims from the business relationship with the buyer (goods subject to retention), also if payments are made to specially designated claims. The placement of individual claims on a current transaction statement and a balance of current transactions and its recognition shall also not affect the retention of title to ownership. Only the first receipt of money at us or its credit entry is deemed to be a payment. Insofar as the payment of the purchase price is made by means of accepting a bill of exchange, the retention of title to ownership shall not expire before honouring of the bill of exchange by the buyer as drawee.
- 6.2 If the delivered goods are processed or worked by the buyer, the retention of title to ownership shall also extend to the new item resulting from this. The processing

or working or transformation of the purchase item by the buyer shall always occur in the name of and on behalf of Ziegler Holzindustrie KG. In this case, the contingent right of the buyer to the purchase item shall continue with the transformed item. Insofar as the purchase item is processed with other objects not belonging to Ziegler Holzindustrie KG, Ziegler Holzindustrie KG shall acquire the joint ownership of the new item in the ratio of the objective value of the purchase object supplied by Ziegler Holzindustrie KG to the other processed objects at the time of processing. The same shall apply for the case of mixing. Insofar as the mixing occurs in such way that the item of the buyer is to be regarded as the main item, it shall be deemed to be agreed that the seller assigns joint ownership pro rata to Ziegler Holzindustrie KG and that thus resultant sole ownership or joint ownership is retained for Ziegler Holzindustrie KG.

- 6.3 If the goods subject to retention are sold by the buyer, solely or together with goods belonging to Ziegler Holzindustrie KG, the buyer shall now assign the claims resulting from the resale to the amount of the final invoicing amount agreed with Ziegler Holzindustrie KG, if applicable including value added tax with all subsidiary rights. Ziegler Holzindustrie KG shall accept this assignment. If the resold goods subject to retention are in our joint ownership, the assignment of the claim shall extend to the amount which corresponds to our proportional value of the joint ownership.
- 6.4 Insofar as the goods subject to retention are installed by the customer as an essential component in the property of a third party, the buyer shall thus now assign the resultant, assignable claims against the third party or whom it concerns for remuneration to the amount of the value of the goods subject to retention with all subsidiary rights invoices including a right to admission of a safeguarding mortgage, with priority over the remainder. Ziegler Holzindustrie KG shall accept this assignment. The above point 6.3 clause 3 shall apply correspondingly.
- 6.5 If the goods subject to retention are installed by the buyer as an essential component in the property of the buyer, the buyer shall now assign the claims resulting from the sale of the property or property rights to the amount of the value of the goods subject to retention with all subsidiary rights and with priority above the remainder. Ziegler Holzindustrie KG shall accept this assignment. The above point 6.3 clause 3 shall apply correspondingly.
- 6.6 The resale, use or installation of the goods subject to retention is only permissible for the buyer in a proper business transaction and only under the proviso that the claims as defined by points 6.3, 6.4 and 6.5 actually pass over to Ziegler Holzindustrie KG. The buyer is not entitled to other rights of disposal to the goods subject to retention, in particular pledging and security assignment.
- 6.7 The buyer remains authorized to recover the claims assigned pursuant to the above points 6.3, 6.4 und 6.5 until revocation by Ziegler Holzindustrie KG which is possible at any time. Ziegler Holzindustrie KG shall not utilize its authorization for recovery as long as the buyer fulfils his payment obligations also to third parties. On our request, the buyer must disclose the assigned claims to the debtor and indicate the assignment to the latter. Ziegler Holzindustrie KG is authorized to indicate the assignment to the debtors itself as well.
- 6.8 In the case of pledging, confiscations or other accesses of third parties to goods subject to retention or claims, to which Ziegler Holzindustrie KG has rights of security, the buyer must immediately notify Ziegler Holzindustrie KG and support its rights in the enforcement. The costs for any judicial or out of court interventions shall be borne by the buyer, insofar as their remuneration cannot be demanded from the third party.
- 6.9 If payments are suspended, an application is filed for insolvency proceedings or insolvency proceedings are opened, and in case of judicial or extrajudicial composition proceedings, the right to resell, use or install the goods subject to retention and the authorization to claim assigned accounts receivable shall be forfeited. The direct debit mandate shall also be forfeited in the case of cheque or bill protest.
- 6.10 If the buyer acts in such way that he breaches the contract, in particular in case of payment arrears, we shall be entitled to take back the delivered goods. The taking-back of the delivered goods shall not entail a withdrawal from the contract, unless Ziegler Holzindustrie KG would have declared this expressly in writing. After taking-back the delivered goods, Ziegler Holzindustrie KG shall be entitled to reuse them. The reutilization proceeds shall be offset against the liabilities of the buyer plus reasonable reutilization costs.
- 6.11 If the value of the granted securities exceeds the claims of Ziegler Holzindustrie KG from the business relationship with the buyer by more than 20%, Ziegler Holzindustrie KG shall release securities extending beyond this value on the request of the buyer. The choice of securities to be released shall be at the discretion of Ziegler Holzindustrie KG.
- 6.12 The buyer is obliged to take care of the goods delivered under retention of title and insure them at his own expense against fire, water, theft and other normal risk meriting insurance.
- 6.13 If an application for commencing insolvency proceedings has been filed against the buyer, Ziegler Holzindustrie KG shall be entitled to withdraw from the contract and demand the immediate return of the delivered and unpaid goods.

7. Defects and warranty

- 7.1 Wood is a natural substance, its natural properties, deviations and features must therefore always be observed. In particular, the buyer must take into consideration its biological, physical and chemical properties during purchasing and use. If necessary, he must obtain specialist advice. The spectrum of natural colouring, structural and other differences within a type of wood is part of the properties of the natural product wood and is no justification for a defect in the delivery.
- 7.2 As a rule, only our product description is deemed to be agreed as the nature of the goods. However, public statements, recommendations or advertising by use do not represent any contractual indication concerning the nature of the goods.
- 7.3 Notifications of defect by the buyer presuppose that the buyer examines the goods for defects immediately after receipt and complains in writing to Ziegler Holzindustrie KG in good time. The complaint is timely if it arrives at Ziegler Holzindustrie KG within five working days, calculated from receipt or, in the case of concealed defects, from discovery. Insofar as no defects are notified during this period, the goods shall be deemed to be approved and the enforcement of warranty claims shall be excluded. Minor deviations in wood products which are due to the naturalness of the material (e.g. grain, colour) do not represent a defect.
- 7.4 Insofar as the goods cannot be inspected immediately upon goods acceptance after a normal business transaction, Ziegler Holzindustrie KG must be immediately notified of this circumstance and a potential defect that can be

ascertained during a subsequent examination indicated in writing no later than within 14 working days from receipt of the goods onwards. The same also applies for incorrect or different deliveries.

- 7.5 Claims from the title of warranty can only be enforced by the buyer up to maximum six months from the passing of risk, unless longer mandatory periods are stipulated by law.
- 7.6 Insofar as a defect is present and its rectification is requested by the buyer, Ziegler Holzindustrie KG shall have the choice whether it rectifies the defect through reworking, additional delivery or purchase price reduction. The supplementary performance can be rejected as long as the buyer does not fulfil his payment obligations to the extent which corresponds to the defect-free share of the performed delivery.
- 7.7 The buyer shall be entitled at his discretion, to withdraw from the contract or demand a corresponding purchase price reduction if the subsequent performance fails at least twice.
- 7.8 Returns of delivered goods shall be at the expense and risk of the buyer, unless otherwise agreed in writing with Ziegler Holzindustrie KG. However, the costs for the return must be borne by Ziegler Holzindustrie KG, if the return is made on account of a justified notification of defect by the buyer.
- 7.9 The processing and machining of the goods shall lead to exclusion of the warranty.
- 7.10 The assertion of warranty claims shall not exonerate the buyer from his payment obligation.

8. Claims for compensation, liability

- 8.1 Ziegler Holzindustrie KG shall be liable for damage resulting to the buyer only to the extent that Ziegler Holzindustrie KG has demonstrated wilful intent or gross negligence.
- 8.2 The liability is generally limited to an amount of the goods value of the relevant delivery. The liability for lost income, consequential damage or for damage on account of the claims of third parties is excluded.
- 8.3 Ziegler Holzindustrie KG shall not assume any liability for damage due to improper treatment of the delivered goods. Likewise there shall be no liability for work of third parties that is subsequently carried out on the delivered goods.
- 8.4 Ziegler Holzindustrie KG and its subcontractors shall only be liable for consequential damage resulting from defects within the context of the mandatory provisions of the Product Liability Law.

9. Applicable law, place of performance, place of jurisdiction

- 9.1 The law of the Federal Republic of Germany shall exclusively apply to the contractual relationship between Ziegler Holzindustrie KG and the buyer. The provisions of the Nations Convention on Contracts for the International Sale of Goods ("UN Purchasing Convention") are not applicable to this contractual relationship.
- 9.2 The head office of Ziegler Holzindustrie KG shall be agreed as the place of performance for the payment of the purchase price and for other performances on the part of the buyer, insofar as no divergent agreement is made in writing.
- 9.3 The sole place of jurisdiction for all disputes arising from the contractual relationship between Ziegler Holzindustrie KG and the buyer, also for claims from bills of exchange or cheques, shall be the court legally responsible for the head office of Ziegler Holzindustrie KG. However, Ziegler Holzindustrie KG is authorized to bring a legal action against the buyer at his general place of jurisdiction.
- 9.4 The language of the contract is German. Only the German text of these general terms and conditions of sale and delivery is legally binding for the contractual relationship. Insofar as agreements are made in a language other than German in respect to the applicability of German law, the agreement concerning the place of performance and place of jurisdiction, the German version shall always apply in the case of deviations.

10. Other provisions

- 10.1 Should one or more provisions or parts of a provision of these terms and conditions of sale and delivery be or become ineffective, their remaining validity shall not be affected by this. The buyer and Ziegler Holzindustrie KG shall undertake to replace the ineffective provisions or partial provisions by regulations which best correspond to the purpose of the contract. The same shall apply for the case of unaware incompleteness.
- 10.2 Agreements divergent from or supplementary to these terms and conditions must be made in writing in order to become effective in individual cases.
- 10.3 These general terms and conditions of sale and delivery shall supplement the contracts agreed between Ziegler Holzindustrie KG and the buyer. In the case of contradiction of the provision in the contract or if the contract contains more extensive provisions, the contract shall take priority over the general terms and conditions of sale and delivery.

Status: 01.06.2013 / Version: English