

Terms and Conditions of Sale and Delivery

1. Applicability

- 1.1 These Terms and Conditions of Sale and Delivery (hereinafter referred to as "Terms and Conditions") shall apply to all and each sale and delivery transaction(s) between KRONOSPAN SCHWEIZ AG (hereinafter referred to as "KRONOSPAN") and its contractual partners (hereinafter referred to as "Buyer"). KRONOSPAN and Buyer are collectively referred to as "Parties". These Terms and Conditions govern the Parties' rights and obligations.
- 1.2 These Terms and Conditions shall apply exclusively. The Buyer's business terms and conditions or amendments to these Terms and Conditions shall not constitute a part of the contract even if KRONOSPAN does not contradict them. Any variations, amendments, changes or alterations of these Terms and Conditions require the express written consent of KRONOSPAN.
- 1.3 These Terms and Conditions shall apply to all future sale and delivery transactions between the Parties.

2. Offer, Acceptance and Conclusion of the Contract

- 2.1 An order of the Buyer shall be deemed as a binding offer. The contract shall be concluded by KRONOSPAN's acceptance of the Buyer's order by the KRONOSPAN's order confirmation (via e-mail, fax or letter). Neither verbal offers nor verbal agreements are binding for KRONOSPAN.
- 2.2 KRONOSPAN may produce the goods in modified form as far as necessary to satisfy statutory regulations in this respect and the modified goods do not entail any quality deteriorations or fitness for merchantability.
- 2.3 Advice of any kind, especially with regard to the fitness of the purchased goods to the Buyer's specific intended use, shall not be the subject of the contract. Any Buyer's information shared with KRONOSPAN concerning intended use of the goods shall not be a commercial basis of the contract. The examination of the product suitability for the specific intended use shall be the Buyer's obligation.

3. Prices and Delivery Conditions

- 3.1 The prices, currency and delivery conditions (Incoterms 2010) shall be confirmed by KRONOSPAN's order confirmation. All prices are exclusive of value added tax (VAT) that shall be paid by the Buyer.
- 3.2 In case of significant changes in raw materials prices, energy prices or other price relevant economic circumstances in the time between the day of contract conclusion and the day of delivery, KRONOSPAN shall be entitled to a reasonable price adjustment. The price adjustments shall be in writing, announced at least four weeks in advance.
- 3.3 The payment conditions laid down in the order confirmation shall apply. Partial deliveries are permitted and may be invoiced separately.
- 3.4 In case of default, the Buyer shall pay default interest of 6% per annum and overdue fines.
- 3.5 In case of default, KRONOSPAN shall be entitled to suspend further deliveries to the Buyer, even if they are not a part of the same order.
- 3.6 Payments of the prices shall be ensured by the trade credit insurance notified by KRONOSPAN to the Buyer or by bank guarantee in the form acceptable to KRONOSPAN.
- 3.7 In case of the Buyer's alleged counterclaims against KRONOSPAN, the Buyer shall only be entitled to offsetting, retention or price reduction if the Buyer's counterclaims are undisputed by KRONOSPAN or if the court of law has finally decided in favour of the Buyer.
- 3.9 The assignment of the Buyer's claims against KRONOSPAN shall be precluded.

4. Delivery

- 4.1 KRONOSPAN shall at the earliest be obliged to deliver the goods ordered when payment of

the price agreed in accordance with sec. 3.6 has been ensured.

- 4.2 The goods shall be delivered in accordance with the agreed terms of delivery (Incoterms 2010).
- 4.3 In case of delivery hindrance that is beyond KRONOSPAN's control, KRONOSPAN is entitled to suspend delivery or withdraw from the contract.
- 4.4 While in every transaction KRONOSPAN takes reasonable care in respect of the fulfilment of the agreed delivery dates, KRONOSPAN shall not be liable for the delay in delivery, loss or damage arising from the delayed delivery or other damages, costs or fees arising out of or in connection with this contract. Partial or delayed deliveries shall not entitle the Buyer to withdraw from the contract. In case that the Buyer would suffer damage due to delay in delivery, KRONOSPAN shall only be liable if the delay has been caused by KRONOSPAN's gross negligence.
- 4.5 The Buyer shall accept the goods after KRONOSPAN's notification of readiness for collection. Were the goods not taken in possession by the Buyer within 5 working days of notification of readiness for collection, the goods shall be deemed accepted and can be stored at the expense of the Buyer. The Buyer shall compensate KRONOSPAN for the damage caused by the delay in acceptance. Further consequences of default of acceptance shall not be affected.
- 4.6 In case of damage occurred during the transportation, the Buyer shall in any case inform the carrier thereof and make a notification of damage in writing on the shipping documents. The occurrence of the damage shall be confirmed by the carrier.

5. Passing of risk

In case of accidental destruction or accidental deterioration of the goods, the risk of the purchase price payment obligation shall pass in accordance with the agreed terms of delivery (INCOTERMS 2010).

6. Warranty

- 6.1 The Goods produced by KRONOSPAN consist mainly of wood which is a natural product. Its inherent features lead to a range of natural colours, structures and other differences. Therefore, those are not defects.
- 6.2 Insignificant deviations from the product description and measurement errors within the EN standard do not constitute defects.
- 6.3 After the passing of risk pursuant to sec. 5, the Buyer is obliged to investigate the goods immediately for damage, including wrong deliveries and quantity of errors. In any case, the complaint shall be submitted in writing to KRONOSPAN no later than 5 working days after receipt of the goods. The complaint shall contain the detailed description of the alleged breach of the contract and its cause. The goods shall be deemed approved if the Buyer omits to complain according to the rules laid down above. Defective goods may not be processed. The submission of the complaint shall not entitle the Buyer to refuse either acceptance of the goods or payment of the purchase price.
- 6.4 Warranty claims presuppose that the Buyer holds the defective goods available for KRONOSPAN's inspection and the goods have been fully paid upon maturity. Prior to the return being shipped, the Parties shall agree on the return.
- 6.5 If the Buyer's complaint has been submitted in time and in compliance with these Terms and Conditions, and if the goods are defective according to this contract, KRONOSPAN shall replace the defective goods by supplying goods in accordance with the contract within a reasonable time and free of charge. Any further Buyer's claims for damages (consequen-

tial damages are excluded, i.e. damages for any physical damage, power failures, indirect and direct financial loss, machinery or devices, failure to supply, deliver or distribute any material or products, cancellation or termination of orders or contracts or negotiations or any other consequence whether foreseeable or not which arises from the delivery of defective goods, damages of third parties, are excluded. The Buyer shall not be entitled to either the termination of the contract or to the purchase price reduction.

- 6.6 The warranty period shall be maximum 24 months beginning from the time point of passing of risk in accordance with Article 5 above.
- 6.7 Any Buyer's claims under defect warranty shall be forfeited from the time of beginning of any processing, modification or improper storage or handling of the goods supplied by KRONOSPAN.

7. Withdrawal from the Contract

- 7.1 KRONOSPAN may withdraw from the contract if the Buyer has failed to fulfil his obligations to cooperate during the second time limit set by KRONOSPAN to the Buyer or if KRONOSPAN's performance became impossible for unforeseeable reasons for which KRONOSPAN is not responsible and which cannot be eliminated at reasonable expense due to permanently insurmountable obstacles to performance.
- 7.2 KRONOSPAN may withdraw from the contract if the Buyer failed to ensure the payment of the agreed price according to the Article 3.6 by the agreed delivery deadline.
- 7.3 In case of KRONOSPAN's withdrawal, the Buyer shall not be entitled to any compensation, indemnity, damages or other payment in respect to such withdrawal excluding the reimbursement of Buyer's payments made according to this contract.

8. Liability

KRONOSPAN shall be liable for property damage and financial loss only in case of intent or gross negligence. KRONOSPAN's liability is limited to damages and any loss typical for this kind of contract and foreseeable by concluding of this contract that may occur by the Buyer or any third party arising from this contract or otherwise.

9. Retention of the title

The ownership of the goods delivered shall retain by KRONOSPAN until payment under the sale and delivery contract is received in full.

10. Place of Performance, Jurisdiction and Choice of Law

Place of performance for both parties and place of jurisdiction shall be Menznau CH-6122, Switzerland. The applicable law is Swiss law. The UN Convention on the International Sale of Goods (CISG) shall be excluded.

11. Severability and Requirement of Written Form

If any provision of this contract should be or become void or unenforceable then such provision shall be severed from this contract. The remaining provisions of this contract shall not as far as possible be changed or modified and all other terms and conditions not so severed shall continue in full force and effect. The parties shall be obliged to agree on a new regulation of the matter most closely approximating the purpose intended by the void provision.

There were no verbal side agreements. Any amendment to the contract shall be in the form of a document in writing. The same applies to the waiver of the requirement of written form. The requirement of written form shall apply especially for notifications of withdrawal and setting of deadlines.