

Effective as of March 15, 2017

GENERAL TERMS AND CONDITIONS OF SALE ("TERMS AND CONDITIONS")

§ 1. Scope of these Terms

1. These Terms and Conditions are an integral part of any contract of sales concluded between Danzer Veneer Europe GmbH (Seller) and the Buyer concerning products sold by the Seller and of all further legal relations between Seller and Buyer these Terms and Conditions apply to all future business transactions, even if there is no explicit reference to these General Terms and Conditions of Sale.
2. All hereinafter following regulations are binding unless and insofar as they have not been explicitly excluded by an agreement in writing and signed by both parties (for the purpose of these General Terms and Conditions agreements between the parties by email are equally considered as agreements in writing). These Terms and Conditions prevail over any alternative Terms and Conditions the Buyer might have, unless the Seller has agreed to those in writing for each specific individual sale. No consent whatsoever to divergent Conditions of Sales of Buyer can be derived from the fact that eventual divergent Conditions of Sale of the Buyer should not have been explicitly opposed or in case that payments for deliveries are accepted.

3. With the first shipment Buyer acknowledges these General Terms and Conditions of Sale also in their respective future effective versions as agreed and binding for all further contracts. Modifications or variations from these Terms and Conditions must be agreed in writing in order to be valid.

Insofar as Seller and Buyer have concluded framework-contracts, the provisions of the framework-contract prevail. The framework-contracts are supplemented by these General Terms and Conditions insofar there are no more specific provisions agreed.

Alterations, amendments or supplement of contract or side agreements are valid only, if they have been confirmed by Seller in writing.

§ 2. Conclusion of Contract

1. Any contract shall be deemed to have been concluded when the Seller has issued a confirmation of the order in writing. Solely the content of the order confirmation is relevant. Any previous offers made by the Seller are not binding and are of no legal consequence.
2. Measures, weights and other performance characteristics are only binding if these have been explicitly agreed upon in writing.

§ 3. Object of Purchase

1. All products the Seller deals with can become objects of purchase. Specification of goods and amounts will be determined by the relevant order confirmation. Buyer is not entitled to request any modification of or deviation from the confirmed order object of performance after conclusion of contract unless explicitly and separately agreed and specified in detail in writing for each individual case.

§ 4. Rules and Regulations at the Destination

1. The Buyer is obligated to inform the Seller in writing at latest together with his order and furthermore in case of any changes of the applicable law without any delay of all the rules and regulations relevant at the place of destination regarding import or export of the shipments (deliveries) and performance of contract as well as any provisions regarding safety, licensing or permissions required or use and application or operation of delivered goods and services. The Buyer is responsible and liable to comply with all these rules and regulations.

§ 5. Delivery

1. Unless otherwise agreed in writing, the mode of dispatch, the dispatch type and the dispatch route will be determined by the Seller.
2. Delivery times are subject to confirmation. If delivery times should have been agreed upon in writing they will be kept to the best of the Seller's possibilities. All delivery times shall start to run on the date of completion/assembly at our factory/storage.
3. The delivery time shall be reasonably extended,
 - a. if the Seller does not receive all information necessary for the execution of the order in due time or if the Buyer alters such information albeit with written confirmation of Seller at a later date and therefore causes a delivery delay;
 - b. if the Seller is prevented from delivering the goods due to "force majeure" as described in paragraph 7;
 - c. if the Buyer or a third party is in delay with their contractual obligations, especially if the Buyer is in arrears with payments.
4. If the products are ready to be shipped or loaded, delivery time will be considered as having been kept and contractual obligations will be considered as having been fulfilled by the Seller.

5. If the Seller is responsible for delay in delivery, the Buyer is entitled to withdraw from the contract after having unsuccessfully given in writing the Seller an additional respite (extension of time) to perform of twelve weeks. In the event that delivery dates cannot be met for reasons outside of the sphere of responsibility of Seller, both parties to the contract commit to mutually adapt the contract according to the changed circumstances upon the principle of utmost good faith and equity. The Buyer cannot claim any damages for delayed delivery. The Buyer can claim damages, however, if the Seller has acted intentionally or grossly negligent. The Seller's liability in the event of a covering purchase is limited to the amount of any additional costs of a maximum of 10 % of the value of the goods originally agreed upon between the Seller and the Buyer. Any further claims of Buyer for damages (including eventual damages through eventual covering purchases) are in any case limited to the maximum of the amount of payment received (exclusive of any applicable VAT) for the individual order in issue. Compensation for consequential losses or damages is excluded to the extent as legally permitted.
6. Over-deliveries or short deliveries up to 10 % or customary marginal dimension tolerances (up to 10 %) are permitted and do not justify or entitle to any Buyer/Customer complaint. Partial deliveries are admissible and shall be charged separately.
7. The Buyer is responsible and accountable for due disposal of any packaging material and has to bear such relevant costs.

§ 6. Passing of Risks and Costs

1. Passing of risks and costs is generally governed by contractual terms and conditions in the respective order confirmation according to Incoterms 2010.
2. Until the agreed time of collection by the Buyer, the goods are stored at the risk and at the costs of the Seller who cares for insurance against loss or damage through fire, theft, influence of weather etc. After the agreed collection date the goods are stored at the risk and at the costs of the Buyer.

3. If the goods are sent with free delivery, use and risks are passing to the Buyer as soon as the goods are delivered or, in the event of other means of delivery, when the carrier receives the goods. If the goods are ready to be shipped but shipping is delayed due to reasons the Seller cannot influence, all risks pass to the Buyer at the time notification is given that the goods are ready to be shipped.
4. In case the Buyer refuses to accept the goods, the passing of risks to the Buyer takes effect at the latest at the time of the refusal. At the same time the purchase price becomes due and immediately payable, disregarding any other periods of payment which may have been agreed upon before. Furthermore, the Seller is entitled to claim from the Buyer any damages which he incurs or might incur in the future due to the delayed acceptance of the goods, such as default interest, costs for storage and transport etc.
5. After the passing of risks, the Buyer is responsible for insurance against any possible damages. Furthermore, any insurance which has to be cared for by the Seller before the transfer of risks is considered to be concluded for account and risk of the Buyer. In the event of FOB and CFR deliveries the Buyer is obligated to cover the insurance immediately after the conclusion of the contract. International terms of trade are understood according to Incoterms 2010.

§ 7. Force Majeure

1. The Seller is not liable for the consequences of force majeure beyond the control of the parties including wars, natural disasters, boycotts, strikes, business or operations disruption, shortfall of energy, supplies of power, fuel and raw materials, legislative acts, external attacks on IT-systems or similar events. In the event of any force majeure, the Seller is entitled to either withdraw from the contract or to suspend its execution for the duration of the effects of the force majeure event. No claim for damages whatsoever can be made. The same applies if presuppliers or subcontractors, without any fault of the Seller, do not or not timely fulfil their delivery obligations or if the regular means of procuring or transporting goods are disturbed. The party affected by force majeure shall inform the other party about the occurrence of force majeure and equally about the end of the force majeure circumstances.

2. If in a case of paragraph 1 the amount of goods at the disposal of the Seller is not sufficient to meet the demands of all customers, the Seller is entitled to make reductions to all agreed quantities. Beyond that the Seller is not bound any more to any obligation of delivery. The Buyer in such case is entitled to withdraw from the contract if the acceptance of a lesser quantity of goods in consideration of his interests is economically unacceptable to him.

§ 8. Purchasing Price

1. Unless otherwise agreed in writing, the prices are quoted net of VAT in Euros (€) plus any applicable VAT in the statutory rate. In case any other currency has been agreed upon, the Buyer is liable for any exchange rate losses compared to Euros (€) incurred as of the date of default of payment. The final price is the one stated by the Seller in his order confirmation plus applicable VAT at the statutory rate. Unless otherwise agreed, prices are understood ex works or ex seat of the Seller.
2. In case public charges respectively public costs (e.g. taxes, custom duties, dues, tariff rates, charges) or costs for transportation, for manufacturing or marketing of the goods which are beyond the control of Seller have increased or are newly introduced between the date of the order confirmation and the date of delivery, the price which the Buyer has to pay will increase accordingly. This shall also apply if such costs or charges have not been stated separately in the order confirmation. In case the Seller is legally not allowed to shift or claim such costs from the Buyer, he may withdraw from the contract.

§ 9. Terms of Payment

1. Payments shall be made without any discount within 30 days of the date of the invoice to one of the bank accounts of the Seller indicated on the order confirmation unless otherwise agreed in writing (or by email).
2. The Buyer shall only be entitled to set off counterclaims or to retain payments, be it only partially, if the Seller has explicitly agreed to this or if such counterclaims have been determined with enforceable legal effect.

§ 10. Decrease of Creditworthiness

1. In the event that the Buyer or an affiliated company does not meet payment obligations, or, in the event that the Seller receives unfavorable information about the financial or asset situation of the Buyer – even if the financial or asset situation has been the same at the time of the conclusion of the contract – then the Seller is entitled to demand immediate payment of all due or undue bills disregarding any prior payment agreements. Furthermore, the Seller is entitled to stop any further deliveries or to execute deliveries only against advance payment to secure its claims, to withdraw from all contracts and to demand the return of all goods already delivered. Information by a bank or any other relevant authority will be considered as proof of such circumstances.

§ 11. Default

1. If the Buyer is in delay with any payment deadlines, he will immediately be considered to be in default and he will be liable to pay default interest of 3 M EURO-LIBOR plus 9,2 %. Without further notice the Seller has the right to stop any further deliveries and/or to withdraw from the contract. All costs arising due to sending reminders or costs incurred for collecting (even by third parties) will be charged separately and have to be fully refunded. The right to claim any other damages caused by default is reserved.

§ 12. Place of Performance

1. The place of performance for the purchasing price and for any obligations the Buyer might have is the registered office of Danzer Veneer Europe GmbH, Goellstrasse 20, 5082 Groedig, Austria.
2. The place of performance for the deliveries is the place where the goods are stored ready for shipment. The place of performance will not be changed by the fact that the Seller arranges for the shipment of the goods.

§ 13. Retention of Property Title

1. The Seller retains property title of the delivered goods until full payment through Buyer.
2. Insofar as the delivered goods become mixed up with or connected to goods not belonging to the Seller and insofar as these goods cannot be separated anymore without causing damage or causing unproportionally high expense or work, the Seller shall acquire co-ownership of these new goods in proportion to the invoice value of the used goods to the intermediate or end products respectively to the value of the mixed quantity. In case the Buyer acquires sole ownership of the new product, the parties agree that the Buyer will until full payment is made either (i) procure that Seller is granted the same position as if Seller would be joint owner in the aforementioned proportion or (ii) or transfer such title of joint ownership up to the value described above to Seller respectively. In all these circumstances the Buyer will be custodian of and store these manufactured or new goods free of charge.
3. Buyer assigns any account receivable resulting from reselling goods under retention of property title to the Seller. Any accounts receivable resulting from reselling goods under joint ownership according to paragraph 2 will be regarded as having been assigned to Seller. The seller hereby accepts the above-mentioned assignment of receivables. The Buyer is obliged to make available to the Seller, if so demanded, the names of all third party debtors, the amounts due, their further details, due dates etc. as well as to notify third party debtors about this assignment of receivables and to provide for the respective legal act of publicity (e.g. notice of assignment). Irrespective of the right of the Seller to collect, the Buyer has the right to collect the assigned receivables, but only insofar and as long as he fulfils all his obligations towards the Seller and secures legally binding effect for the substitute security as to the assigned accounts receivables. Any other claims which might be generated or accrue through or on any other legal grounds (e.g. insurance, liability in tort concerning the goods under retention of property title are already now assigned to their full extent by the Buyer to the Seller for the purpose of security and Buyer has to provide for the respective legal act of publicity.
4. The Buyer is entitled to process or to resell the goods under retention of property of title during the ordinary course of business if he is not in arrears with his payments. The Buyer is obliged to secure the rights of the Seller with legally binding effect if he resells such goods on credit (see also above para 3). The Buyer is not entitled to

pawn, pledge or transfer as collateral security etc. any goods under retention of property of title without prior consent of the Seller until title to all goods and products under retention of title has passed on to Buyer. Insofar as third parties start debt enforcement procedures concerning goods under the retention of property title, the Buyer is obliged to pass on relevant information about the Seller's right of ownership and he will inform Seller immediately about these procedures, including on all relevant documentation necessary for an intervention. In such circumstances and without prejudice to any further claims the Seller might have against the Buyer all outstanding accounts receivable of Seller against Buyer become due and enforceable irrespective of any periods of payment agreed before. All goods under retention of property title have to be treated with care and have to be insured against theft, fire and water by Buyer.

5. In case of any infringement of Buyer of any clauses of the contract – especially in the event of default of payment – the Seller has the right to reclaim all goods under retention of property title delivered to the Buyer under this or any other contract or to demand that the Buyer transfers respectively assigns to the Seller his respective rights against third parties for payment or for releasing and returning these goods. The exercising of proprietary rights with regard to goods and products under retention of property title such as to fetch back or to seize the Seller's goods under retention of property title do not constitute a withdrawal of contract. Notwithstanding any further or exceeding claims of Seller, the Buyer is liable to reimburse the Seller for all diminution of value of the goods, for all costs for reclaiming the goods up to the minimum value of 10% of the purchase price and any loss of profit. In the event of default of payment or in case the Buyer has agreed non-assignability of claims with his customers the right to resell or to process the goods under retention of property title as well as the right to collection of assigned Sellers' claims is invalid.
6. The Seller is obliged to unblock securities to which he is entitled, if the Buyer so demands, if the realizable value of the securities exceeds 10 % of the value of Seller's claims which have to be secured. The choice respectively decision which securities which will be unblocked lies with the Seller.

§ 14. Warranty

1. Seller warrants subject to the other terms of these general terms and conditions of sale that the goods are in accordance with the specifications given in the order confirmation. Any other liabilities are excluded insofar as legally permissible. In particular, any information given by the Seller with regard to suitability, fitness for use, spectrum of application usability or processing possibilities of the products is not binding and does not release the Buyer from conducting his own tests and examinations. If the Buyer has inspected the goods and not made any complaints before the time of shipment or before collecting the goods, all further warranty claims because of identifiable deficiencies, especially with regard to the composition, quality, dimensions, measurements, quantity etc. are excluded.
2. Differences in the color of the wood, which is a natural product, including such which occur over time lapse do not constitute a defect in the meaning of these warranty provisions. In the case of veneer, a possible variance in thickness up to 5 % has to be tolerated. The measurement with which the veneer has been sliced or peeled is considered to be the measurement according the contract. The surface area is calculated electronically. A possible variance has to be tolerated up to 3 % of the overall surface area.
3. Immediately after arrival, the goods have to be inspected by the Buyer; any complaints have to be made known to the Seller in writing within 14 days from receiving the goods at the destination. Any latent deficiencies have to be made known in writing to the Seller immediately after their discovery, but not later than 6 months after delivery. In the event of any damage caused during transportation and any obvious damage to the packing, the Buyer has to make a reservation in writing on the delivery note or on the bill of lading and the Seller has to be informed in writing immediately. The Seller cannot be made liable for any defects, even latent deficiencies, which appear while processing or after processing the goods. The same applies in case of sale of spliced or unspliced veneer for defects which occur during or through processing.
4. Any defective objects of purchase have to be stored carefully and free of charge by the Buyer in the condition respectively status they were at the time when the defect was noticed and be made available for inspection by the Seller.

5. If the object of purchase is defective and liability or claims are not excluded by above mentioned clauses, the Seller will at his own choice either deliver faultless goods or repair the deficiencies. If repairs or replacements as chosen by the Seller fail, the Buyer has the right to an appropriate reduction of the purchase price or to withdraw from the contract. However, if the deficiencies are insignificant, the Buyer has no right to withdraw from the contract. If no quality complaint is lodged within six months of receipt of the goods at the destination, all warranty claims shall be excluded and barred. To the extent as legally permissible, the Seller is not liable for any claims for damages or any consequential damages.

6. In the event of deliveries being made under special conditions or free of charge, the Seller is excluded from any and all liabilities.

§ 15. Transfer of Rights and Obligations

1. Any assignment or transfer of rights and obligations arising from a contract between the parties can only be made with the consent in writing of the parties of the contract.

§ 16. Place of Jurisdiction and Applicable Law

2. If one or more of these general terms and conditions of sale should be or become invalid, the contract as well as the residual General Terms and Conditions of Sale remain in force and effect. The parties to the contract are obliged to replace any invalid provision by another valid provision which achieves the same or comes as close as possible to the same intended economic purpose; otherwise the respective applicable statutory rules apply instead of the invalid term. The same applies in case of a gap respectively loophole.

3. The law of Austria shall apply to the contractual relationship between the parties, excluding the Agreements of the United Nations Concerning Contracts for the International Sales of Goods (CSIG).

4. Any disputes arising from the contractual relationship between the parties shall be settled by the competent court at the Seller's seat. The Seller is entitled to prosecute the Buyer of file complaint at Buyer's place of seat / residence.