

#### **Article 1: Applicability**

1.1 These Terms and Conditions are applicable to all tenders / quotations issued by us and all agreements to be concluded with us as well as all obligations arising from them.

1.2 Departure may only be made from these Terms and Conditions if agreed in writing.

1.3 General Terms and Conditions of the purchaser are not applicable unless accepted by us in writing.

1.4 In the event of resale, the purchaser is obliged to agree upon these General Terms and Conditions with the party purchasing from it, and these General Terms and Conditions will be deemed to have been stipulated on behalf of us as well.

#### **Article 2: Tenders, confirmations and prices**

2.1 All tenders and quotations are made free of obligation unless they include a term for acceptance. They are based on any information supplied with the application. We are entitled to revoke any tender within two days after accepting it, as a result of which the agreement will be deemed not to have been concluded or dissolved.

2.2 Samples and models of items shown by us and illustrations and descriptions of items in the documents sent by us are not binding with regard to the construction and finish of the items to be supplied.

2.3 Illustrations, drawings, models, samples, specimens and price lists supplied by us remain our property at all times and must be returned to us upon our first request. Failure to do so will result in the keeper of those items being obliged to pay a sum to be determined by us. Our written permission is required at all times for the reproduction of illustrations, drawings and models, samples, specimens and price lists.

2.4 Unless agreed otherwise, prices quoted by us apply to delivery ex warehouse and exclude both Value Added Tax and packaging. Furthermore, prices quoted by us exclude both assembly and installation and costs and the costs of putting items into operation.

2.5 If packaging is necessary it will be charged at cost price and we will not take back any such packaging. We will assess the necessity of the use of packaging.

2.6 Quotations are always made based on prices applicable at the moment of purchase and/or at the time the assignment is issued. If, following the conclusion of an agreement, one or more cost price factors (including wages, taxes, premiums, factory prices, foreign exchange rates etc.) are subject to any increase, then we are entitled to charge any such increase to the purchaser following the lapse of a period of three months after the agreement has been concluded. If we wish to increase the agreed price before that time, then the purchaser is entitled to dissolve the agreement. The purchaser is required to invoke its right to dissolution in writing within 14 days after we have given notice of our wish to increase the agreed price.

2.7 Purchasers are bound by our written confirmations if within 8 working days after their receipt they have not issued a written rejection of the correctness of the substance of any such confirmation.

#### **Article 3: Delivery, risk and assembly/installation and repair times**

3.1 From the moment the purchase agreement is concluded, the purchaser bears all risks and expenses of the item sold.

3.2 Unless explicitly agreed otherwise in writing, all supplies are made ex warehouse. The items are transported – also in the event that carriage paid delivery has been agreed – entirely at the expense and risk of the purchaser.

3.3 Delivery times quoted and periods indicated for

assembly/installation/repair will always be deemed to have been made approximately and will never be regarded as constituting deadlines. In the event of any delay in delivery, assembly, installation and/or repair, we must be given written notice of default and be allowed a reasonable period of time in order to observe our obligations.

3.4 The purchaser bears responsibility for any dimensions and amounts indicated by it. For dimensions indicated by the purchaser in connection with wooden products, certain discrepancy margins apply unless such discrepancies have been previously ruled out in writing.

3.5 If the purchaser immediately refuses to receive the items offered it, then the purchaser will bear all expenses arising from such refusal (including freight and storage costs).

#### **Article 4: Payment terms**

4.1 The client is at all times entitled to request security from the purchaser for the correct and timely observance of its payment obligations.

4.2 Unless explicitly agreed otherwise, payment must be made no later than 30 days after the invoice date, while no appeal for set-offs, deductions or discounts may be allowed, unless referred to on the invoice. By way of a departure from that set forth in this article, we are entitled to require either partial or complete advance payment from the purchaser.

4.3 If within 30 days after the invoice date or within another agreed period the purchaser has not made payment, then we are entitled to increase the amount due with interest, at 1% per month, or the statutory interest rate if that is higher (whereby interest accrued over part of one month will be calculated as though a full month), commencing 30 days after the invoice date or the agreed payment date. If the purchaser remains in default with any payment, or is late in making payment, then we are also entitled to increase the amount due to us by the debt collection costs incurred. Regarding this matter, the out-of court collection costs will be set at 15% of the amount due, with a minimum of EUR 100.

4.4 If the purchaser fails to meet any obligation held by it by virtue of the agreement concluded with us, or fails to do so properly or on time, even in the event of bankruptcy, suspension of payment, temporary closure or winding up of the purchaser's company, then the purchaser will be deemed to be legally in default and, at our discretion and without any notice of default or judicial intervention being required, we are entitled either to suspend performance of the agreement or to dissolve the agreement either partially or wholly without our being obliged to observe any guarantee or pay any damages without prejudice to our right to demand payment for the items delivered by us and/or the activities performed by us, and without prejudice to our right to demand damages as well as the reimbursement of costs incurred plus interest from the purchaser in connection with such suspension or dissolution.

4.5 While the agreement is being performed, we are entitled to suspend observance of our obligations until, upon request and to our satisfaction, the purchaser has furnished security regarding the observance of all its obligations arising from the agreement. This condition is equally applicable if credit has been stipulated. Refusal by the purchaser to furnish the requested security gives us the right to dissolve the agreement without judicial intervention and to take back all that which has been delivered, without prejudice to our right to payment for activities we have already performed and without prejudice to our entitlement to damages and the reimbursement of any costs incurred plus interest.

#### **Article 5: Dissolution**

5.1 A written declaration by the entitled party is required to effect either partial or complete dissolution of the agreement. Before the purchaser sends us a written declaration of dissolution, the purchaser will at all times give us notice of default and allow us a reasonable period of time to observe our obligations or remedy our failures, which failures must accurately be reported by the purchaser.

5.2 The purchaser has no right to dissolve the agreement either partially or completely or suspend its obligations if the purchaser itself has been in default in meeting its obligations.

5.3 If we consent to dissolution of the agreement without our being in default, then we have at all times the right to compensation for all economic losses, such as costs, loss of profit and costs reasonably incurred in order to determine damage and liability. In the event of partial dissolution, the purchaser may not require that any performance of ours should be undone, and we are fully entitled to payment for any performance of ours.

#### **Article 6: Cancellation**

6.1 Assignments granted by the purchaser, including deliveries by virtue of on-call contracts, future orders, annual contracts etc., may only be cancelled with our consent. If we consent to cancellation, then the purchaser owes us damages amounting to at least 25% of the amount the purchaser would have been required to pay us upon performance of the assignment. If we refuse cancellation, then the purchaser has the obligation to purchase.

#### **Article 7: Retention of title and right of pledge**

7.1 The purchaser becomes the owner of the items delivered or yet to be delivered by us only under suspensive condition. We remain the owners of the items delivered or yet to be delivered so long as the purchaser has not paid our claims in respect of the consideration of the agreement or any similar agreement. We also remain the owners of the items delivered or yet to be delivered so long as the purchaser has not paid for the activities in performed or yet to be performed in pursuance of such agreements, and so long as the purchaser has not made payment for claims arising from failures in the performance of obligations arising from such agreements, including claims with regard to penalties, interest and costs incurred.

7.2 In the event that the purchaser does not meet any obligation arising from the agreement with regard to items sold in respect of us, then we are entitled to take back both the items originally delivered and the items newly formed. The purchaser hereby authorizes us to enter the place where those items are located.

7.3 So long as the purchaser has not settled the aforementioned claims, it is not entitled to establish any right of pledge or other security right on the items delivered by us.

7.4 As soon as the purchaser has met all its payment obligations arising from this and similar agreements, we transfer ownership to it of the items delivered, under reservation of our right of pledge with regard to other claims we have against the purchaser. At our first request, the purchaser will provide its co-operation regarding acts required in that respect.

#### **Article 8: Assembly and installation**

8.1 Unless otherwise agreed, assembly and installation will be carried out at the rates applicable at that moment.

8.2 The purchaser is required to see to it that we are able to perform our activities without disturbance. To that end, the purchaser must ensure, inter alia, that in the space in which the activities must be performed gas, water and electricity are present and that the space is or

can be heated, unless the nature of the agreement is in conflict with these stipulations.

8.3 If through no fault of our own assembly or installation cannot be carried out regularly and without interruption, or is delayed in any other manner, then we are entitled to charge the purchaser any additional costs thereby incurred at the rate applicable at that moment.

8.4 Any unforeseen costs will be borne by the purchaser, in particular costs incurred because assembly or installation could not be carried out during normal daytime working hours.

8.5 Upon completion of assembly/installation activities, the purchaser is required to be present and to check whether the activities concerned have been performed properly.

8.6 Complaints with regard to assembly or installation made following departure of assembly/installation personnel will not be dealt with unless the purchaser demonstrates that it could not reasonably have discovered a defect at the moment that assembly/installation was completed. In that case, within 14 days after discovering the defect, the purchaser is required to communicate its complaint to us in writing, and allow us the opportunity to repair any defect provided that the complaint is made within the guarantee period.

#### **Article 9: Liability**

9.1 We are only liable for direct damage sustained by the purchaser, which damage is directly and solely attributable to us, on the understanding that only that damage for which we are insured, or which we reasonably should have been insured given normal sector practices, qualifies for compensation.

9.2 We are not liable for indirect or consequential damage (including loss of profits and/or stagnation) arising from any cause whatever.

9.3 In the event that notwithstanding the liability exclusion stipulated in article 9.2 any liability with regard to indirect or consequential damage lies with us, then that will in any case be limited to no more than the net invoice amount for those items delivered by us or the activities performed by us in respect of which we are liable for damages.

9.4 We will supply advice and information with regard to the products to be delivered as well as indications regarding their use to the best of our knowledge. We do not accept any liability for the correctness of such advice, information or instructions for use. The instructions for use serve as guidelines, and must be checked and confirmed by the purchaser's own tests under the circumstances prevailing. The purchaser must at all times strictly adhere to the instructions and indications appearing in brand-name publications, subject to the aforementioned stipulations regarding the purchaser's obligation to perform its own tests. Regarding the inflammability of many items delivered by us, the purchaser is in all cases responsible for taking appropriate measures. The purchaser must see to it that its employees are sufficiently schooled and trained in order to be capable of properly using and processing the products supplied by us.

9.5 In the event of a slight discrepancy between samples supplied and items delivered in consequence, the purchaser is not entitled to any damages.

9.6 We are not liable for any damage caused by assistants or by their deliberate acts or gross negligence.

9.7 The purchaser is itself responsible for taking sufficiently protective measures in the use and processing of substances constituting a risk to health and/or environment. We are not liable for any damage sustained as a result of the failure to take such measures.

9.8 With regard to the products delivered or advice supplied by us (or the use or processing of them), the purchaser will at all times indemnify us against any and all claims of any nature made by employees and/or third parties.

9.9 We are at no time liable for any materials supplied to us by the purchaser in connection with the

agreement. The purchaser undertakes to effect adequate insurance in respect of these materials.

#### **Article 10: Guarantee**

10.1 No guarantee will be issued for used items delivered unless explicitly agreed by the parties in writing.

10.2 Only factory or importers' guarantee stipulations are applicable to items delivered that are under factory and/or importers' guarantee, with due observance of the stipulations of paragraph 3 of this article. In no other cases do we issue any guarantee, unless otherwise agreed in writing. No guarantee is issued for samples supplied by us, which samples are at all times supplied solely for the purpose of performing tests. Furthermore, issue no guarantee is issued in the event that the products delivered by us are used or applied in combination with other products, whether delivered by us or not, unless the possibility of such use or application in combination with other products has been communicated to us in writing.

10.3 Our liability under the guarantee is limited to either partial or complete redelivery if the items delivered contain defective materials or demonstrate manufacturing faults. Further guarantees are ruled out, because the processing of the items delivered often extends beyond our influence. The number of travelling hours clocked up as well as the travelling and accommodation costs connected with the guarantee will be charged to the purchaser.

10.4 We incur no obligation at all for promises made by the manufacturer and/or importer that extend beyond the guarantee stipulations, and such promises can therefore never be held against us.

10.5 The guarantee is not applicable to defects arising from normal wear and tear, careless or inexpert use, insufficient and/or inexpert maintenance, incorrect storage, accidents or contingencies such as fire and water damage, or if the items have been altered or repaired by third parties.

10.6 The guarantee only applies if the purchaser has fulfilled all its obligations in respect of us.

10.7 We will charge for repairs performed beyond the extent of this guarantee.

#### **Article 11: Complaints**

11.1 As soon as the purchaser has received the items it must establish that those items are in good condition in every respect and correspond with the order made.

11.2 Any complaints with regard to the items supplied by us and the amount or quantity delivered, or to the activities performed by us, or the invoice amounts, must be submitted to us in writing within a proper period of time after receipt of the items, or after the activities have been performed, or after receipt of the invoices, with an accurate report of the facts upon which the complaint is based. The onus of proof that the goods about which the complaint is made are the same as those delivered by us lies with the purchaser.

11.3 A proper period of time is understood to mean within 14 days after delivery of an item or after performance of the activities or after receipt of the invoices. If the packaging bears an earlier use-before date, then any complaints must be submitted before that date.

11.4 Complaints, including ones with regard to guarantee obligations, never entitle the purchaser to suspend fulfilment of its obligations in respect of us.

11.5 Items delivered by us that have been processed will be deemed to have been approved.

11.6 The purchaser loses all rights and entitlements available to it that arise from faults and defects if it has not complained within the aforementioned period of time and/or has not offered us the opportunity to repair the defects.

11.7 No complaint whatever is allowed if the purchaser has begun processing, or has commenced delivery of items to third parties, while it could have discovered the defectiveness claimed of the goods by means of straightforward testing. No complaint is allowed on the grounds of technically unavoidable discrepancies of

colours or properties.

11.8 The purchaser may only demonstrate the defectiveness of paint and/or dye products delivered by us by submitting a report drawn up by the Dutch TNO Paint Institute [Verfinstituut TNO], whereby the costs incurred in drawing up the report will be borne by the party declared to be found at fault.

#### **Article 12: Force majeure**

12.1 Any circumstance arising through no fault of our own, as a result of which normal performance of the agreement is impeded, counts as force majeure. In any case, circumstances giving rising to such force majeure include, for any reason whatever, failure of our own suppliers to make delivery, strikes, shut-outs, disruption in power supplies, disruption to traffic, machine failure, government measures, as well as the consequences of any of these, loss or damage arising in transportation, etc.

12.2 In the event that performance of the agreement is impeded as a result of force majeure, we are entitled without judicial intervention being required, either to suspend performance of the agreement up to a maximum of 6 months, or to dissolve the agreement partially or wholly, without incurring any obligation to pay any damages whatever. During such suspension we are entitled, and at the end of it we are obliged, to choose either to perform the agreement or to dissolve the agreement either partially or wholly.

#### **Article 13: Non-feasibility of performance of the agreement**

13.1 If an assignment is granted on the basis of a drawing, sample, model or anything else and we have accepted that assignment, then we are entitled to cancel the agreement without incurring any obligation to pay damages if it turns out that performance of the assignment is not possible in accordance with the method originally intended, or if the item cannot be manufactured in accordance with the production method originally intended, unless the purchaser is prepared to bear the necessary additional costs.

#### **Article 14: Applicable law and jurisdiction clause**

14.1 Dutch law only is applicable to any agreements concluded with us, with due observance of these Terms and Conditions.

14.2 The applicability of the Uniform Law on the International Sale of Goods and the Vienna Sales Convention is expressly ruled out.

14.3 All disputes arising from agreements concluded with us, or from other agreements resulting from those agreements, or in consequence of tenders submitted by us and advice supplied by us, will be referred exclusively to the competent court in 's-Hertogenbosch, the Netherlands, unless we apply to another court.



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