

TERMS AND CONDITIONS

I. AREA OF APPLICABILITY:

1. Our Terms of Sale and Delivery apply exclusively; contrary or different conditions derived from the buyer do not apply. Conditions of Purchase stipulated by the purchaser, similarly any notes which the purchaser may append to our Conditions of Sale and Delivery will not be binding for us, even if we do not expressly reject them. In the event of a copy of our Conditions of Sale and Delivery not having been sent to the purchaser along with our offer, or not having been given to him on some other occasion, they will nevertheless apply if they were already known to him - or should have been known to him - from earlier business dealings with us.
2. Our sales and delivery conditions apply to all of our delivery transactions. Only written offers and agreements are legally binding. Agreements made orally and by telephone require a written confirmation to become valid.

2. OFFER AND CONTRACT RESOLUTION:

1. Our offers remain free and non-binding with regard to prices and delivery times. Drawings, diagrams, measurements, weights or other service information are (with the exception of prices and delivery times) only binding if this is expressly agreed in writing.
2. Should the buyer place an order, this is considered a binding offer on the part of the buyer. We can accept this offer at our discretion within 14 days by sending a written order confirmation.
3. A purchase agreement is not created until we release a written order confirmation, even if the order was made with one of our representatives. For a written order confirmation to be created, a credit insurance payment equal to the outstanding liability must be made to Prisma Kreditversicherungs AG.
4. No offer and project documentation may be redistributed or made available to third parties without our consent. Such documentation may be recalled at any time and must be immediately returned to us if the order is made in another manner.
5. Retroactive amendments and additions to the contract require written confirmation to become valid.

3. PRICES

1. Prices are understood ex works as excluding packaging, freight, customs, import, additional expenses and legal VAT.

2. If prices are not agreed on beforehand, the contract does not enter effect until the prices to be disclosed as binding in the order acceptance statement have been confirmed by us in writing.
3. Should resource and tertiary resource prices, wages, currency exchange rates or other economic factors with a recognizable effect on prices change between contract resolution and delivery, we are authorized to amend prices in a manner appropriate to these changes. Price increases apply to deliveries as of a date specified by Mareiner Holz.
4. If no special payment conditions have been agreed upon, our invoices are due for net payment as of their date of invoice. All payments are to be made to use exclusively in EUR. Delay of payment causes the loss of all discounts, quantity and freight compensation or similar agreements. Upon delay of payment, we are also authorized to immediately make all other invoices not yet due, as well as pre-process costs, in particular reminder fees and attorney costs, due for immediate payment and to immediately cancel other orders confirmed to the buyer.
5. Should reasonable doubts in the creditworthiness of the buyer or his ability to uphold payment occur after contract resolution, or if such circumstances already existing at the time of contract resolution do not become known to us until a later time, we are authorized to request either cash payment or payment of a security deposit before delivery, as well as to withdraw from the contract and request compensation for expenses from the buyer, as well as to cancel payment targets granted and make all claims invoiced due for immediate payment. Should insurance protection prove insufficient, any delivery obligations and binding price agreements agreed upon shall expire.
6. Despite any possibly existing provisions of the buyer to the contrary, we are authorized to first add existing debt on the part of the buyer to payments due. If costs and interest have already been incurred, we are authorized to first add these costs, then the interest and lastly the main service to payment due.
7. Even if deficiency claims or counterclaims have been enforced, the buyer is only authorized to offset, withhold, and reduce payments if counterclaims have been determined by court order or are indisputable. We, or companies associated with us, may however enforce claims by way of offset.

4. DELIVERY TIME:

1. Planned delivery times are upheld to the greatest degree possible, but can be delayed upon the occurrence of unforeseen circumstances, especially, but not limited to, in the event of business interruptions, strikes, fires, natural disasters and/or other cases of force majeure, in a manner appropriate to these circumstances. Should delivery on the part of a pre-supplier, especially a supplier of raw materials, fail or be delayed through circumstances for which we are not responsible, we are authorized to withdraw from the contract along with the buyer, the buyer is not entitled to any further damage compensation claims.

2. If a planned delivery date is missed by more than two weeks, the buyer is entitled to set an appropriate extended delivery period for us. If the delivery still remains unfulfilled, the buyer has the right to withdraw from the contract within two weeks after the extended period ends. Withdrawal must be declared in writing. The withdrawal right does not exist if we are unable to uphold the extended delivery period due to no fault of our own, especially in the event of an improper and untimely fulfillment of buyer obligations.
3. We are entitled to partial deliveries and services at any time. Should the customer not uphold an agreed uniform acceptance, our delivery obligation and any price agreement are both dissolved.
4. For pickup orders, the buyer is obligated to accept possession of the product 14 days after completion at the latest. Otherwise, the product is automatically delivered, and is stored in a public space at the cost of the buyer if delivery is refused, whereby the delivery is considered completed. no change is thereby made to agreed payment conditions.
5. Should acceptance of the product by the buyer be delayed, we are authorized to request compensation for damages incurred to us; upon occurrence of a delay in acceptance, the danger of spontaneous decay and loss is transferred to the buyer.
6. Any discounts or turnover and freight compensation granted are revoked upon the initiation of settlement proceedings in or outside of court, insolvency, delay of payment for a period longer than 2 months, and upon court-ordered collection. Discounts and other payment benefits granted only apply to the period for which they were agreed.

5. QUALITY:

1. The quality definition for terraces and Alpine Wall Panels is included in our product sheets, which you can find at www.mareinerholz.com. Characteristics typical for wood, such as color differences, splitting of annual rings, as well as cracks due to weather stress, do not constitute grounds for complaint.
2. With each type of wood, leaching can occur during outdoors use.

6. TRANSFER OF RISKS:

1. Shipment is made at the expense of the buyer. All risk is transferred to the buyer as soon as the shipment has been given to the person carrying out transport or has left our warehouse for the purpose of shipment.
2. Should shipment become impossible through no fault of our own, risk is transferred to the buyer upon receipt of the report that shipment is ready.

3. The buyer is obligated to accept the product at the confirmed date. Otherwise, the buyer is obligated to pay storage costs, with the delivery considered completed. no change is thereby made to agreed payment conditions.

7. WARRANTY:

1. Legal warranty obligations apply unless special warranty periods have been agreed upon for individual delivered objects. This also applies to delivery and service object attached to a building or to the ground. The term of the warranty period begins at the time of transfer of risk as per Point 5. The buyer shall immediately, and within 8 days after receipt of the product at the latest (=complaint deadline), report in writing any apparent defects recognizable upon proper inspection. Defects that cannot be detected within this period, even upon proper inspection, should be reported to us immediately upon discovery. The same applies to complaints due to faulty deliveries and discrepancies in quantity. Upon failure to meet the complaint deadline, the buyer is no longer entitled to warranty or other claims.
2. In the event of defects in goods delivered by us, our defects liability guarantee is restricted to either replacing the delivery or reducing the purchase price, whichever we consider the most expedient. Other claims on the part of the purchaser - in particular claims for compensation - on the grounds of defects in the delivery are ruled out (see also: Clause 8: Liability Limitations). Claims under warranty are not transferable and will only be accepted from purchasers who have bought directly from us.
3. Insignificant inconsistencies, such as those pertaining to dimensions and design, do not justify the enforcement of defect complaints. Inconsistencies listed in the quality guidelines, of which the buyer is aware, are all in line with the contract and do not entitle the buyer to enforce defect complaints.
4. Before modification and processing of the delivered product, the buyer is obligated to review its suitability to his intended use, even if product samples were delivered beforehand. Sample deliveries only represent an example from the overall delivered quantity. Variations in structure and color are specific to the materials and therefore normal. Complaints may only be enforced for materials that are available for inspection or return.
5. Warranty obligations are dissolved if the delivered product is changed, processed or handled improperly. A requirement for warranty obligations is the fulfillment of the contractual obligations applicable to the buyer, especially the agreed payment conditions. Returns may not be made without prior mutual agreement.
6. Defects may only be enforced by the buyer if they represent more than 4 % of the overall product value of the delivery.
7. The preceding paragraphs conclusively regulate the warranty for our products and services delivered, and completely exclude other warranties/guarantees or other liability claims of any kind.

8. RETENTION OF PROPERTY:

1. We are liable in scope of the legal provisions and can only be held liable for direct damages as well as consequential damages in cases where intent or extremely gross negligence on our part can be proven within the context of the legal regulations. In case the business deal was made with a consumer, liability for direct damages as well as consequential damages to persons is restricted to intent or gross negligence, meaning that compensation is ruled out in case of slight negligence.
2. Property acquisition on the part of the buyer or third parties is excluded in the event of modification or processing of our reserved product into a new object. Modification and processing is done exclusively for us. The modified object completely serves the assurance of the claims named in the preceding paragraph. Should products from other suppliers also be modified, we receive at least partial ownership to the new object up to the portion corresponding proportionally to the value of the other modified objects that the supplier has invoiced. The buyer pledges to transfer his claims from further sale transactions to us in order to secure our claim to purchase price, as well as to make a corresponding note in his accounting or documentation. Upon seizure or other enforcement, the buyer is obligated to refer to our ownership and to immediately inform us. Only in the event that a supplier has also enforced a legally valid extended right to property retention are the corresponding delivery claims transferred from us in the amount of our share of property of the products sold.
3. Should the buyer's claims from further sale of our reserved products, or products in which we have partial ownership, be deposited in a current account, the buyer is obligated to transfer these claims to us.
4. Upon delay in payment or a cessation of payment on the part of the buyer, the initiation of insolvency proceedings, or other endangerment of repayment, the buyer is obligated to clearly label or otherwise mark the reserved product as our property in a manner that is visible for every third party. He shall send us a detailed list of all reserved products still available, even if they have been modified or processed, as well as a list of the claims transferred as per the preceding paragraph, including the names of third-party debtors. Irrespective of this provision, parties authorized by us are entitled to undertake appropriate assessments with the buyer in order to uphold our rights, as well as to receive all documentation necessary to do so. In the aforementioned cases, the reserved products shall be provided to us without request of any freight or other expenses, whereby we are authorized, due to a hereby irrevocably issued statement of buyer consent to removal, just as we are authorized in such cases, but not required, to sell the products directly or by way of auction at our own discretion, and to deduct the proceeds from the net purchase price.
5. The buyer bears the risk for products delivered by us. He is obligated to store the products carefully and sufficiently insure them against loss, theft, fire etc. He hereby transfers the claim against the insurance provider for the event of damage to us, namely for a priority share equal to the purchase price of the products delivered by us under the retention of ownership. The

same applies if insurance does not cover the full amount of all damages, meaning that we cannot be obligated to accept proportional compensation in such cases.

6. The buyer is authorized to sell our products as part of the ordinary course of business. Pledging the products or using them as a security is prohibited. The buyer shall immediately inform us of seizure or another infringement of our rights through third parties, and he shall assist us in the pursuit of our rights upon avoidance of the creation of an obligation to damage compensation to us. The buyer is liable for all costs of intervention both in and outside of court.
7. Upon special request of the buyer, we are authorized to transfer ownership reserved by us or to which we are entitled and/or to re-transfer the claims to which we are entitled from further sale, even before full payment of all our deliveries, if and to the extent that our security exceeds our overall claim to be secured in each case by 20%. We determine which objects and claims are released in such cases.
8. The buyer pledges to undertake all possible efforts, in particular to submit each declaration of legal transaction to us or a third party, in order to provide assistance in enforcing the agreed retention of ownership and the transfer in advance, even in the context of foreign law applicable to the delivery location or the domicile of the buyer.

9. LIABILITY RESTRICTIONS:

1. We are only liable for damages outside of the area of application of the Product Liability Act insofar as we can be proven to be guilty of intent or gross negligence in accordance with legal regulations. Liability for light negligence, the compensation of consequential damages and property damages, unrealized savings, loss on interest, and from damages resulting from third-party claims against the buyer, are excluded in all cases.
2. We are in agreement with the buyer that the buyer assumes sole risk in internal affairs as a co-manufacturer according to the Product Liability Act. He releases us from all possible claims and will provide a security if necessary.

10. APPLICABLE LAW, COURT OF JURISDICTION, PLACE OF FULFILLMENT, PARTIAL INVALIDITY:

1. All disputes are resolved as per Austrian substantive law. Application of the uniform UN Convention on Contracts (CISG) via the conclusion of international purchase agreements for movable assets is excluded.
2. The court of jurisdiction for all disputes pertaining to the contractual relationship, its creation and its validity, as well as pertaining to bills of exchange and checks, is the factually responsible court in 8600 Bruck/Mur. We are however also entitled to contact the buyer's court of jurisdiction.
3. The place of fulfillment for all liabilities resulting from the delivery transaction is our company domicile in 8641 St. Marein/Mürztal.

4. Should individual provisions of these conditions be or become invalid, the validity of the remaining provisions remains unaffected. The contractual partners are obligated to agree on a new provision that approximates the purpose of the invalid provision as closely as possible. no oral agreements in addition to our Purchase and Delivery Conditions have been made. Any amendments must be made in writing. This also applies to the amendment of the written form requirement itself.