

HOLZINDUSTRIE SCHWEIGHOFER BACO S.R.L.
General Sales and Delivery Terms and Conditions

General Sales and Delivery Terms and Conditions

(Version dated July 1, 2018)

of

Holzindustrie Schweighofer BACO S.R.L.

with seat in RO-605200 Comănești/Bacău, no. 15 Crinului street, Romania
Register-No.: J04/725/1999, VAT-No.: RO 12447070

§ 1

Scope of application

- 1.1 These general terms and conditions apply to current and future business relations of Holzindustrie Schweighofer BACO S.R.L., including any of its branches and sites, (hereinafter in short: 'HSB') with businesses (in the meaning of the consumer protection laws; hereinafter in short: 'Customer') for the supply of goods and services by HSB, including pre-contractual discussions and information. The relevant version valid at the time of the contract, or the version valid at the time of establishing contact, if a contract is not concluded, shall apply.
- 1.2 Deviating or supplementary general terms and conditions of the Customer shall, even if known to HSB, not apply unless HSB explicitly consents in writing to their applicability.

§ 2

**Offers, conclusion of contract,
content of performance obligation, conversation recording**

- 2.1 Offers by HSB are non-binding and subject to change without notice. Contractual declarations by HSB, as well as any amendments and supplements thereto, are not binding until explicitly confirmed in writing or per email or actually performed by HSB. HSB shall be entitled to transmit documents relevant to the order of the Customer via e-mail or in any other electronic form. All transmissions to any e-mail-address or other electronic address advised or used by the Customer shall be deemed delivered to the Customer upon mailing. The Customer is obligated to use the technical means to receive electronic documents and he is responsible to secure the integrity of the content and the legibility of electronic documents.
- 2.2 Product and service characteristics (technical specifications), including suitability for specific uses, as well as standards (samples, models, advertising statements) are only binding, if explicitly agreed in writing. Nevertheless, HSB reserves the right to technical and other modifications.
- 2.3 HSB is entitled to refuse or reduce (further) deliveries – for example after an examination of the credit-worthiness of the Customer or due to lack of availability of goods and services – without incurring any liability.
- 2.4 HSB is entitled to automatically record and store all conversations with customers to prove the content of conversations in complaints cases as well as for internal quality assurance and training. The Customer can revoke this consent at any time.

§ 3

Prices

- 3.1 The prices of HSB are subject to change without notice and are understood – unless explicitly agreed otherwise in writing (in particular by way of INCOTERMS) – as immediately payable with no cash discount, excluding VAT, for deliveries ex works, and also excluding packaging, loading, transport, insurance and other

HOLZINDUSTRIE SCHWEIGHOFER BACO S.R.L.
General Sales and Delivery Terms and Conditions

incidental expenses, such as taxes, customs duties and fees; such incidental expenses will be charged in addition to the price.

- 3.2 Deductions granted to the Customer (cash or sales discounts, refunds etc.) and other terms more favorable for the Customer as compared to these general terms and conditions shall not apply in case of payment defaults, other breaches of contract or insolvency of the Customer.
- 3.3 Goods and services supplied after a period of six weeks starting from the order confirmation (e.g. successive deliveries, deliveries on demand) may be invoiced at current prices irrespective of a fixed price agreement, unless explicitly agreed otherwise in writing.
- 3.4 In the event of any increases in costs in connection with raw materials, transport, energy or labor amounting to or exceeding 3% in total occurring after conclusion of the contract, HSB shall be entitled to increase the agreed prices accordingly and notify the Customer thereof. The increased prices shall apply 14 calendar days after such customer notification.
- 3.5 In case prices are agreed in another currency than the Euro and such currency devalues against the Euro by 3% or more after conclusion of the contract, HSB shall be entitled to increase the agreed prices accordingly and notify the Customer thereof. The increased prices shall apply 14 calendar days after such customer notification.
- 3.6 The Customer may raise objections against any invoice within a term of five days after receipt of such invoice; thereafter the invoice shall be deemed accepted by the Customer.

§ 4

Payments, payment defaults

- 4.1 Payments of the Customer shall be deemed made if and at the time and to the extent finally, unconditionally, irrevocably and uncontestably credited to the indicated bank account of HSB. The payment term runs from the invoice date and is deemed complied with only if the HSB bank account is credited by the specified due date.
- 4.2 The payment default interest rate for payment obligations in Romanian currency amounts to 10 percentage points above the reference rate published by the Romanian National Bank and for payment obligations in Euro or other currencies 10 percentage points above the 1-month-EURIBOR, unless HSB is able to prove a higher damage due to the payment default. In case of a payment default the Customer is obligated to reimburse HSB for any incurred collection expenses and legal expenses.
- 4.3 Payments of the Customer effected in another form or currency as agreed, if accepted by HSB, shall be deemed to be made on account of and not in lieu of the payment obligation. Irrespective of any other dedication of a payment by the Customer, HSB is entitled to offset payments at first against ancillary claims, interest, mature or not yet adjudicated claims and only thereafter against the principle payment obligation.
- 4.4 The Customer shall only be entitled to withhold payments or to compensate with counterclaims in legal interrelation to the payment obligation in the event of a binding and final determination or an explicit acceptance by HSB.
- 4.5 In the event of a deterioration of the economic condition of the Customer HSB shall be entitled, irrespective of any agreement to the contrary, to suspend the further supply of goods and services, to declare prematurely due any open receivables against the Customer, to request security or payment of the compensation (advance payment).

§ 5

Deliveries, transfer of risk

- 5.1 Over- or underdeliveries up to 10 percent of the agreed quantity shall be accepted against proportional adjustment of the invoice amount – not unusual and minor dimensional tolerances even without adjustment of the invoice amount – and do thus not represent a defect. Partial deliveries are admissible and may be invoiced separately. Weight specifications are non-binding, unless deliveries were expressly charged to the Customer by weight.
- 5.2 In case of deliveries on demand, unless otherwise agreed in writing, the Customer is obligated to call the goods (or services) within a reasonable time period, at the latest within one month after the order confirmation in approximately equal monthly amounts (approx. +/- 10 percent).
- 5.3 Unless otherwise agreed by HSB in writing (in particular by way of INCOTERMS), the risk of loss or deterioration (damage) of the goods or of delays in transportation passes to the Customer at the time when the goods are ready for collection or dispatch. If the Customer is in default of acceptance or payment, this shall also cause the transfer of risk.
- 5.4 Unless otherwise agreed, HSB is free to choose the method of transportation at the costs of the Customer with no obligation to seek for the cheapest carriage. HSB is not liable for loss or deterioration (damage) of the goods or for delays during transportation.
- 5.5 In the event of a delay in or refusal of acceptance of delivery, HSB is in addition to its other rights (such as rescission and free sale at the expense of the Customer) entitled to store the respective goods at the expense and at the risk of the Customer (at customary storage costs or higher actual costs, however, at least at a minimum rate of € 1.00 per m³ per calendar day) and to treat such goods as duly delivered and accepted. In this event the purchase price becomes immediately due for payment.

§ 6

Delivery times, obligation to accept delivery

- 6.1 The delivery and service times in offers of HSB are non-binding and relate to the completion of works at the premises of HSB. Agreements of binding delivery dates and deadlines shall be made explicitly in writing; nevertheless, this shall not be deemed a contract for delivery to be exclusively settled at the fixed date, unless explicitly agreed otherwise in writing.
- 6.2 Agreed and announced delivery and service times of HSB are approximate estimates and may deviate from actual delivery and service times. Actual delivery within 15 days before or after the agreed or announced time is permissible and deemed to be on time. In case of further delays the Customer is obligated to grant a grace period of four weeks in writing.
- 6.3 HSB is not liable for delays due to force majeure or events including planned or unplanned shutdown or interruption of operations, machinery breakage, strike, fire and the like, or that occur in the sphere of contractors of HSB (e.g. suppliers, carriers etc.), even in case of binding dates and periods. Any such delays shall rather extend agreed and announced dates and periods and entitle HSB, and in case of delays exceeding 3 months–after granting a reasonable period of grace – also the Customer, to entirely or partially withdraw from the contract with respect to unfulfilled part of the contract.
- 6.4 The customer is obligated to accept the goods; this shall not affect warranty claims of the Customer, however, the return of goods because of alleged deficiencies requires the prior written consent of HSB to be granted in its sole discretion.

§ 7

Limited warranty

- 7.1 The warranty period for defects of goods and services that already subsist at the time of transfer of risk (cf. §§ 5.3 and 5.4) extends to a maximum period of six months after transfer of risk. HSB shall not be liable for any deficiencies which occur thereafter.
- 7.2 In order to avoid the forfeiture of his warranty claims (*praclusio*), the Customer is obligated, in accordance with the wood trade usage, to immediately and properly examine incoming goods (goods inspection) and notify defects in writing (esp. with a note on the freight documents (CMR) to be immediately returned to HSB, in advance via facsimile) and he bears the burden of proof that any deficiencies subsisted already at the time of transfer of risk. HSB shall only be liable for not externally visible (hidden) deficiencies, if they were known, and nevertheless not notified to the Customer, or if HSB was blatantly grossly negligently unaware of such defects.
- 7.3 In the event of a complaint by the Customer, upon request of HSB, the Customer shall keep the goods accessible at no charge for the conduct of investigations, reasonably assist HSB in any examinations and/or return the goods after the consent of HSB. After utilization, further processing or resale of any goods by the Customer notifications of defects and raising of claims for warranty and consequential damage are excluded to such extent, if an immediate and proper goods inspection by the Customer had revealed any defects or HSB could not investigate defects claimed by the Customer for reasons that are not attributable to HSB.
- 7.4 In case of deficiencies HSB is entitled to choose, at its sole discretion, to either effect an additional or replacement delivery free of charge, to remedy any defects, to compensate for the reduced value or to claim back against refund of the purchase price the goods that are subject to complaint. Any defects do not affect the obligation of the Customer to pay the purchase price. The cancellation of the contract by the customer is only admissible in case of a severe breach of contract not remedied within a reasonable period of time or in case of a delay in the remedy of defects and is limited to the deliveries affected by deficiencies.
- 7.5 The warranty claims of the Customer are herewith comprehensively stipulated; they exclusively inure to the benefit of the Customer and may not be assigned to third persons. Further and additional warranty rights and warranty recourse claims are excluded.

§ 8

Limitation of liability

- 8.1 The liability of HSB, its directors, employees and agents for any legal reason whatsoever (e.g. culpa in contrahendo, tort, non-performance or defective performance, other breach of contract) is limited – to the extent legally admissible – to deliberate and blatantly grossly negligent damaging acts and to the maximum amount of the value of the goods and services and shall be time-barred after one year after transfer of risk.
- 8.2 The liability of HSB, its directors, employees and agents for slight negligence, the liability for indirect and consequential damage, including lost profits, pure economic loss, unrealized savings, loss of interest, unforeseeable damage, damage from improper use and damage from third party claims against the Customer, is excluded.
- 8.3 The burden of proof of a default by HSB, its directors, employees and agents, including the proof of (gross or blatantly gross) negligence, rests with the Customer. In case of a violation of any instructions of HSB regarding the subsequent use or further processing, the Customer bears the burden of proof that defects and damage were not caused by him and that they would have also occurred by following the instructions of HSB, particularly by conducting immediate and proper examination of incoming goods.

HOLZINDUSTRIE SCHWEIGHOFER BACO S.R.L.
General Sales and Delivery Terms and Conditions

8.4 In case of a liability of HSB, its directors, employees and agents for deficiencies of goods or services, the limitations and options stipulated § 7 for the benefit of HSB apply analogously.

§ 9

Retention of title, other security arrangements

- 9.1 Until full and final payment of the purchase price the delivered goods remain the property of HSB.
- 9.2 If the goods of HSB are processed by the Customer or the goods of the Customer are processed by HSB, HSB acquires joint property of the processed goods according to the proportionate value. The same applies to an indistinguishable commingling of the goods of HSB with other goods by the Customer.
- 9.3 To the extent admissible under the law of the state of the seat of the Customer or HSB, HSB retains the right of property also after full payment of the purchase price until the full and final discharge of any and all other claims of HSB against the Customer.
- 9.4 The Customer is obligated to treat the goods during the period of retention of title with care and to properly store the goods distinguishable from other goods free of charge. Unless the Customer is in default, he has the right to process and resell the goods of HSB in business transactions notwithstanding the rights of HSB. Acts regarding the goods endangering the security interest of HSB are not permitted, in particular pledges or security transfers.
- 9.5 The Customer already now assigns by way of security to HSB up to the amount of the outstanding receivables of HSB any and all of his outstanding receivables and further claims for repossession of the goods, which he acquires through the resale of the goods of HSB or the provision of services to third parties, and is obligated to notify his customers, to apply respective annotations in his accounting records and invoices and to evidence such annotations via access to and statements (extracts) of books and accounts upon request of HSB. Also after such assignment the Customer remains entitled to collect receivables and enforce claims, as long as he is not in default vis-à-vis HSB. The Customer is obligated to keep a separate bank account for the collection of the receivables assigned to HSB.
- 9.6 The Customer is obligated to immediately notify HSB in writing of any attempts of third parties to seize the goods, in particular of any measures of compulsory enforcement, as well as of any damage to or destruction of the goods. Any change in ownership of the goods or a change of the address of the Customer must be immediately notified by the Customer. Third parties have to be adequately informed about the property rights of HSB.
- 9.7 In case of a breach of contract by the Customer, especially in case of a payment default, HSB is entitled to repossess the goods subject to retention of title or joint property or, if applicable, to enforce the claims for repossession of the Customer against third parties in its own name and/or to withdraw from the contract, preserving the legal claims acquired by HSB. Reclaiming or seizing the goods subject to retention of title shall not constitute a withdrawal from the contract. Costs and losses arising from repossessing the goods or from the resale of the goods in the open market are to be borne by the Customer.
- 9.8 At the request of HSB, the Customer is obligated to provide a detailed list of the receivables and claims assigned to HSB pursuant to this provision, with names and addresses of the contractual counterparties of the Customer, to provide all information necessary to enforce the assigned rights and to provide any other necessary and useful assistance to HSB.

§ 10

Data protection

- 10.1 Purpose and categories of data: For the purpose of execution and performance of the contracts to which these General Sales and Delivery Terms and Conditions are attached, HSB may collect, store and use several categories of personal data, including name, telephone number and e-mail address related to the

HOLZINDUSTRIE SCHWEIGHOFER BACO S.R.L.
General Sales and Delivery Terms and Conditions

Customer's representatives, employees, agents or other persons representing the Customer. The data may be collected from the Customer or directly from the data subject.

10.2 Data retention: HSB will retain the personal data for as long as necessary to perform the contract, including for the purposes of satisfying any legal, accounting, or reporting requirements that may involve processing such data. To determine the appropriate retention period for personal data, HSB considers the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorized use or disclosure of your personal data, the purposes for which HSB processes your personal data and whether HSB can achieve those purposes through other means, and the applicable legal requirements.

10.3 Recipients of data: HSB might share the personal data with group companies and other entities/companies, such as legal authorities, other service providers, for the following purposes: fulfillment of legal reporting obligations, allowing the service provider to render certain services for the performance of the main contract.

10.4 Accuracy of data: It is important that the personal information processed by HSB is accurate and current. The Customer will keep HSB informed if there is any change regarding the personal data processed as per the above, to the extent the information is relevant for the contract to be executed between HSB and the Customer.

10.5 The rights of the data subjects in connection with the personal data. Under certain circumstances, by law, the data subjects have the right to:

- Request access to their personal information (commonly known as a data subject access request). This enables the data subjects to receive a copy of the personal information we hold about the data subject and to check that we are lawfully processing it.
- Request correction of the personal information that we hold about the data subject. This enables the data subjects to have any incomplete or inaccurate information we hold about them corrected.
- Request erasure of the personal data. This enables the data subjects to ask HSB to delete or remove personal information where there is no good reason for us continuing to process it. The data subjects also have the right to ask HSB to delete or remove the personal information where the data subjects have exercised their right to object to processing.
- Request the restriction of processing of the personal information. This enables the data subjects to ask us to suspend the processing of personal information about the data subject, for example if they want us to establish its accuracy or the reason for processing it.

To review, verify, correct or request erasure of the personal information, object to the processing of the personal data, or exercise any of the above rights, HSB may be contacted in writing at no. 59 Grigore Alexandrescu street, 2nd floor, 010623 Bucharest, Romania, attn. Legal Department and/or e-mail address dataprotection@schweighofer.ro.

The Customer is responsible that all data subjects whose data is processed for the execution and performance of the relevant contract are informed regarding the processing of their personal data and provided at least the information included in this Section 10.

10.6 No other data processing: For the execution and performance of the relevant contract, and if not agreed otherwise between HSB and the Customer, HSB shall not process any personal data in addition to the categories of data mentioned at item 10.1 above. If the Customer discloses any personal data to HSB, these data shall be deleted as per the internal regulations of HSB and HSB will not assume any liability for this processing, while any unwanted disclosure or other incidents are in the sole responsibility of the Customer, who will also hold harmless of and indemnify HSB for any damage.

10.7 Liability of the Customer regarding the processing of HSB data: If the Customer processes personal data provided by HSB, including data of the representatives or employees of HSB, the Customer will take all

HOLZINDUSTRIE SCHWEIGHOFER BACO S.R.L.
General Sales and Delivery Terms and Conditions

necessary technical and organizational measures necessary for safeguarding such data and is responsible for compliance with the applicable data protection laws, including the GDPR.

§ 11

Intellectual property and other rights of third parties

- 11.1 HSB shall only be liable for the infringement of intellectual and industrial property rights, if committed by gross negligence and if such property right is protected under the laws of the state of the seat of HSB. HSB shall only be liable that delivered goods and services are free and clear of any third-party rights under other laws, if this was explicitly agreed in writing.
- 11.2 HSB is not liable if and to the extent goods were produced according to the explicit instructions provided by the Customer. In this event the Customer is obligated to indemnify and hold harmless HSB from and against any and all asserted or actual third-party claims of any kind.
- 11.3 The Customer is obligated to deliver any and all necessary information on asserted claims of third parties regarding the violation of rights of any kind in connection with the goods and services of HSB and to reasonably assist HSB in the defense of unjustified claims; furthermore, the limitations with regard to warranty and liability stipulated in §§ 7 and 8 apply analogously.
- 11.4 The rights and obligations of the business relationship between HSB and the Customer shall exclusively inure to the benefit of and be binding upon the parties and their respective permitted successors and assigns. Unless explicitly stipulated to the contrary, no other person or entity shall be deemed to be a third-party beneficiary and thus acquire any rights hereunder.

§ 12

Final provisions

- 12.1 HSB is entitled to assign and transfer, in whole or in part, any and all rights and obligations arising in connection with the business relationship with the Customer to another entity with discharging effect and shall inform the Customer thereof. The assignment or transfer of rights and obligations in connection with the business relationship by the Customer is subject to the prior explicit consent of HSB in writing and shall not affect the further liability of the Customer for existing and future obligations arising out of the contract.
- 12.2 Austrian laws and Austrian wood trade usage apply to the business relationship with the Customer if he is seated outside of Romania, otherwise Romanian laws apply and the Austrian wood trade usage applies by analogy; the Convention on Contracts for the International Sale of Goods shall not apply. Place of performance for all mutual claims is, at the discretion of HSB, either at the premises of HSB or Vienna / Austria.
- 12.3 In the event a provision of these general terms and conditions or of an agreement with the Customer shall be or become ineffective under applicable mandatory law, this shall not affect the effectiveness of this provision under any other applicable laws and of any other provision. The ineffective provision shall be deemed to be replaced – if possible by partial choice of the law of the seat of the Customer or of HSB – by mutual consent by such effective provision the economic effect of which comes as close as possible to the ineffective provision.
- 12.4 Agreements and their modifications or extensions are only binding on HSB if made in writing or per email. Any explicit or implied consent or waiver by HSB in connection with a breach of contract committed by the Customer shall not operate as consent or waiver to any other or future breach of contract and the Customer shall not rely on any implied consents or waivers of HSB.
- 12.5 Any and all disputes arising out of or in connection with the business relationship with the Customer, including its violation, termination or nullity, shall be finally settled under the Rules of Arbitration and

HOLZINDUSTRIE SCHWEIGHOFER BACO S.R.L.
General Sales and Delivery Terms and Conditions

Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber (Vienna Rules) in Vienna by one or more arbitrators appointed in accordance with these rules.

12.6 HSB is also entitled, at its discretion, to refer any such dispute to the court in Vienna-Inner City having subject-matter jurisdiction or to any other appropriate court of law, e.g. having jurisdiction at the seat of HSB or the Customer.