

## 1. INTRODUCTION

- 1.1 All contractual relationships between HUSSL and buyers shall be governed by these general terms and conditions. Diverging terms and conditions of buyers or supplementary agreements must be expressly agreed to in writing. At the latest on taking over the goods the respective buyer accepts these general terms and conditions. In the absence of a written agreement, contradictory general terms and conditions of the buyer shall have no effect.
- 1.2 All quotations by HUSSL are subject to alteration and without obligation. Orders from buyers are only binding for HUSSL when confirmed in writing or fulfilled.
- 1.3 The delivery item shall be – as far as it is a regular product in the brochures or sales lists of HUSSL – the product named and described in the confirmation of order. HUSSL reserves the right to make technically necessary or practical alterations to the goods. Specifications regarding properties, dimensions, weight and performance of the goods are for illustration only and are not binding. Should the quality of the product be in any way impaired due to the fulfilment of special requests by the buyer, HUSSL shall not be liable if the impairment was indicated.
- 1.4 The buyer shall compare the confirmation of order with the order. Written notification of deviating confirmations clearly indicating the difference must be made within 5 working days or immediately for agreed supply periods of less than 4 weeks. Otherwise the confirmation of order shall be deemed correct and complete.
- 1.5 Custom-made models supplied to a first order must be expressly requested with subsequent orders. Otherwise the item will be supplied in the standard version.
- 1.6 Cancellation of an order is only possible with HUSSL's written approval. In the event of an order cancellation, all services provided and costs accumulated before the respective cancellation will be charged to the buyer.
- 1.7 If the buyer acts as a vendor, he shall with appropriate terms and conditions ensure that the general terms and conditions of HUSSL apply, in particular as regards warranty and liability.
- 1.8 The buyer is liable for all claims resulting from non-compliance with the above stipulation 1.7 of these terms and conditions and declares he will hold HUSSL harmless from such claims.
- 1.9 HUSSL is entitled to deal with buyers of its own choice and to terminate dealings at any time without providing reasons therefor. Thus buyers do not have any right to future purchases. This is true in particular when the buyer's business conduct does not reflect HUSSL's distribution policies or the buyer does not fulfil its obligations towards HUSSL.

## 2. PRICE

- 2.1 The price of the goods shall be that on the price list valid on the day of the conclusion of the contract. As far as no alternative agreement is made the prices shall be on an EXW A-6123 Terfens, Austria basis, exclusive of applicable sales tax. Prices for custom-made products not included in the price list shall be according to the quotation. Repeated deliveries of the same custom-made item do not entitle the buyer to a fixed price.
- 2.2 In the event of alterations to the price list or of substantial price increases of material or labour costs significant for the manufacture of custom-made items, the agreed price is valid for deliveries taking place within four months of the contract conclusion. If delivery takes place after more than four months, either according to the order or for reasons not attributable to HUSSL, the new price list shall be applicable or respectively HUSSL shall be entitled to increase the existing price appropriately.
- 2.3 For upholstery the prices for standard fabrics according to the respective price category of the valid price list apply. For all other items the fabric shall be provided by the buyer. The prices for "items with customer fabric" apply. In the event that HUSSL provides a fabric not contained in its standard range, it will be invoiced separately. No warranty, guarantee or liability is assumed for the quality or fabrics not included in the standard range.

## 3. DELIVERY

- 3.1 Unless otherwise stipulated in the confirmation of order, delivery shall be EXW A-6123 Terfens, Austria. Partial deliveries are permissible.
- 3.2 Delivery dates merely quoted are without obligation. Expressly agreed delivery periods commence with the receipt of the confirmation of order by the buyer and on clarification of all necessary economic and technical matters necessary for the fulfilment of the order. These include in particular the terms of payment, the receipt of any agreed down-payments, advance payments or bank guarantees as well as the specification of the type of wood, the stain colour and the upholstery fabrics. Failure to deliver in accordance with the agreed delivery date shall not be deemed as contract default before the elapse of an appropriate delivery extension to be set of at least four weeks.
- 3.3 Delivery in accordance with agreed delivery dates shall preclude the complete fulfilment of all contractual obligations by the buyer. As long as the buyer is in arrears with a payment for any order whatsoever, HUSSL shall be entitled to suspend deliveries.
- 3.4 Delivery dates expressly agreed upon are also binding for the buyer. Albeit agreement by HUSSL to the deferral of an agreed delivery date, HUSSL is entitled to charge the buyer with carrying charges, storage costs and any other costs resulting from the deferral.
- 3.5 As long as the buyer is in arrears with an account payable or other contractual obligation, HUSSL shall be entitled to suspend deliveries.
- 3.6 Failure to deliver in accordance with the agreed delivery dates through force majeure or reasons beyond the control of HUSSL, release HUSSL without any further notice from all contractual obligations for the period and the scope of the disturbance. Force majeure may occur, for example, in winter when bad road conditions prevent truck deliveries on a particular date. In such cases HUSSL is neither liable nor has an obligation to deliver. This also applies if HUSSL is already in arrears with other obligations. If the situation of force majeure cannot be expected to be eliminated within a reasonable period of time, HUSSL is entitled to rescind from the contract without becoming liable for compensation claims.

## 4. TERMS OF PAYMENT

- 4.1 Unless otherwise agreed in writing, payment is due strictly net (i.e. without any deductions) within ten days of the invoice date. No deductions can be made from payments by cheque, even when a discount has been agreed. Cheques are accepted in lieu of payment until cleared.
- 4.2 In principal HUSSL reserves the right to deliver goods cash on delivery, on advance payment or on presentation of a letter of credit or bank guarantee.
- 4.3 In the event of late payment or misgivings regarding the solvency of the buyer, HUSSL is entitled – even following the conclusion of the contract and without prejudice – to demand securities for outstanding deliveries.
- 4.4 Interest shall be charged for late payment in the amount of 8 % points above the prime rate (3 month EURIBOR as of due date). The amount of € 20 will be charged per statement or reminder.
- 4.5 Costs for asserting claims, in particular collection costs or lawyer's fees will be charged to the buyer.
- 4.6 Price reductions, discounts or other allowances agreed to shall only be granted if all HUSSL's claims are duly settled and no payments whatsoever are outstanding. Thus in the event of payment in arrears by the buyer, HUSSL is entitled to unilaterally revoke any reductions or other allowances that had been agreed.
- 4.7 Partial deliveries (standard sales units, sealed items) constitute payment obligation for the buyer according to the terms of payment.
- 4.8 Notice of defects or refusal to take over goods do not release the buyer from his obligation to timely payment in full.

## 5. RETENTION OF TITLE

- 5.1 The goods delivered shall remain the property of HUSSL until HUSSL has received cash or cleared funds payment in full from the buyer for all goods and amounts for which payment is due. These outstanding amounts include possible interest, charges or fees in addition to the invoice total.
- 5.2 The buyer shall at his own cost and on his own initiative do all within his power to maintain and support the retention of title.
- 5.3 The buyer assigns his claims against third parties to HUSSL as far as these result from the resale of goods whose title has not yet passed to the buyer. Until further notice the buyer is entitled to collect these claims for HUSSL. According to legal stipulations the buyer shall enter the assignment by way of security in his books, in particular under the OI list (Open Items list), separately and duly endorsed.
- 5.4 The buyer is only entitled to dispose of the goods in the regular course of business. The buyer shall at his own cost prevent access to the goods in the property of HUSSL by third parties and shall immediately inform HUSSL of the same by fax and registered mail.
- 5.5 Unless otherwise noted the repossessing of the goods delivered does not constitute withdrawal from the contract.
- 5.6 Before complete and unreserved payment of the amounts due to HUSSL, the buyer is not entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of HUSSL.
- 5.7 All commercial and technical documents prepared or provided by HUSSL, sample furniture or sales and marketing props remain the property of HUSSL. Any distribution or utilization of the documents provided requires the written authorization of HUSSL. The sales and marketing props shall only be used for the presentation and marking of HUSSL's products. HUSSL is entitled at any time and at the cost of the buyer to reclaim any such sample furniture, documents or sales props.

## 6. WARRANTY

- 6.1 The buyer shall inspect the goods delivered immediately on receipt for visible defects and completeness, otherwise the goods shall be deemed accepted. Shortfall quantities and visible defects must be indicated on the delivery note and notified immediately, at the latest forty-eight hours after the receipt of the delivery, in writing by facsimile or registered mail; otherwise the goods shall be deemed accepted – complete and free of defects.
- 6.2 Forwarding damages or losses shall also be indicated in writing on the delivery note and notified within forty-eight hours in writing by facsimile or registered mail.
- 6.3 Notification of hidden defects must be made in writing to HUSSL within three working days of their discovery, clearly indicating the complaint; otherwise the warranty claims shall be forfeited.
- 6.4 The warranty period begins with the dispatch of the goods, thus generally on the date of delivery EXW. The warranty period for buyers who are not consumers is limited to one year.
- 6.5 This warranty is limited to annulment, reduction, replacement or repair at HUSSL's option within a reasonable period of time. Defect goods may only be sent back to HUSSL on their consent. The buyer is not entitled to compensation in the place of warranty. This warranty does not extend to defects resulting from misuse by the buyer or other third parties he is responsible for. Delivered goods that have been manipulated by the buyer or a third party he is responsible for are excluded from this warranty.
- 6.6 This warranty expressly does not apply to:
  - a) the identicalness of colour and structure of natural materials
  - b) lightfastness and the identical colouring of fabrics, in particular of sample cuts, sample cards, printed or electronic reproductions
  - c) for fabrics provided by the customer ("customer fabric") or any other materials provided by the customer.
- 6.7 In addition to this warranty in specific cases HUSSL gives a guarantee according to the respective existing guarantee guidelines. However each granting of a guarantee requires a separate written agreement, otherwise there is no guarantee due to the lack of a valid agreement.

## 7. FORCE MAJEURE

Cases of force majeure and other such events beyond the control of HUSSL suspend the contractual obligations of HUSSL for the period and the scope of the disturbance. Force majeure shall be seen as any cause that could not be avoided, taking all due care in correct business conduct. This includes in particular bad road conditions preventing truck deliveries on a particular date. In such cases HUSSL is neither liable nor has an obligation to deliver. If the situation of force majeure cannot be expected to be eliminated within a reasonable period of time, HUSSL is entitled to rescind from the contract without becoming liable for compensation claims.

## 8. COMPENSATION

- 8.1 In the event that HUSSL is liable according to preemptions regulations, HUSSL shall only be liable for financial losses incurred in the event of intent or gross negligence. Under no circumstances shall HUSSL be liable in cases of slight negligence. To the extent that in any single case exemption from liability is legally possible, the same shall be deemed to be agreed.
- 8.2 As far as it does not conflict with preemptions legal regulations, liability for damages according to the Product Liability Laws or comparable legal regulations is also excluded.
- 8.3 To the fullest extent permissible pursuant to applicable law, the amount of compensation to be paid by HUSSL is limited to the invoiced value of goods giving rise to the claim. Under no circumstances shall HUSSL be liable for lost profits or consequential damages.
- 8.4 In the event of resale or otherwise passing on delivered goods, the buyer shall also pass all exemptions to liability on to the transferee.

## 9. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION

- 9.1 The place of performance for both contract parties is A-6123 Terfens/Austria.
- 9.2 Subject to the provisions of point 9.4 below, all disputes shall be submitted to the exclusive jurisdiction of the courts of A-6020 Innsbruck, Austria. However HUSSL is also entitled to file legal action in any other court in or outside of Austria.
- 9.3 All contracts with HUSSL shall be exclusively governed by Austrian law. The application of UN Convention on the International Sale of Goods is excluded.
- 9.4 Arbitration Clause
  - d) All disputes with buyers not having their seat in the European Union or in a state member to the Lugano Convention (Jurisdiction and Enforcement Convention) shall be finally settled according to the rules of arbitration and conciliation of the International Arbitration Court of the Austrian Chamber of Commerce (Vienna Rules) in Vienna.
  - e) The number of arbitrators for amounts in controversy up to € 35,000.- shall be one, for greater amounts three.
  - f) The arbitration shall be conducted in the German language.
  - g) The court of arbitration is located in A-6020 Innsbruck.

## 10. EFFECTIVENESS IN THE EVENT OF PARTIAL INVALIDITY

If any provision of these General Terms and Conditions be or become unlawful or unenforceable, this shall not affect the validity and enforceability of any remaining provisions. The invalid provision shall be replaced with a valid provision having the most similar meaning possible.