

## **Terms and Conditions of Sale and Delivery**

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### **1. Applicability**

- 1.1 These Terms and Conditions of Sale and Delivery (hereinafter referred to as "Terms and Conditions") shall apply to all and each sale and delivery transaction(s) between SWISS KRONO AG (hereinafter referred to as "SWISS KRONO") and its contractual partners (hereinafter referred to as "Buyer"). SWISS KRONO and Buyer are collectively referred to as "Parties". These Terms and Conditions govern the Parties' rights and obligations.
- 1.2 These Terms and Conditions shall apply exclusively. The Buyer's business terms and conditions or amendments to these Terms and Conditions shall not constitute a part of the contract even if SWISS KRONO does not contradict them. Any variations, amendments, changes or alterations of these Terms and Conditions require the express written consent of SWISS KRONO.
- 1.3 These Terms and Conditions shall apply to all future sale and delivery transactions between the Parties.

### **2. Offer, Acceptance and Conclusion of the Contract**

- 2.1 An order of the Buyer shall be deemed as a binding offer. The contract shall be concluded by KONOSPAN's acceptance of the Buyer's order by the SWISS KRONO's order confirmation (via e-mail, fax or letter). Neither verbal offers nor verbal agreements are binding for SWISS KRONO.
- 2.2 SWISS KRONO may produce the goods in modified form as far as necessary to satisfy statutory regulations in this respect and the modified goods do not entail any quality deteriorations or fitness for merchantability.
- 2.3 Advice of any kind, especially with regard to the fitness of the purchased goods to the Buyer's specific intended use, shall not be the subject of the contract. Any Buyer's information shared with SWISS KRONO concerning intended use of the goods shall not be a commercial basis of the contract. The examination of the product suitability for the specific intended use shall be the Buyer's obligation.

### **3. Prices and Delivery Conditions**

- 3.1 The prices, currency and delivery conditions (Incoterms 2020) shall be confirmed by SWISS KRONO's order confirmation. All prices are exclusive of value added tax (VAT) that shall be paid by the Buyer.
- 3.2 In case of significant changes in raw materials prices, energy prices or other price relevant economic circumstances in the time between the day of contract conclusion and the day of delivery, SWISS KRONO shall be entitled to a reasonable price adjustment. The price adjustments shall be in writing, announced at least four weeks in advance.
- 3.3 The payment conditions laid down in the order confirmation shall apply. Partial deliveries are permitted and may be invoiced separately.
- 3.4 In case of default, the Buyer shall pay default interest of 6% per annum and overdue fines.
- 3.5 In case of default, SWISS KRONO shall be entitled to suspend further deliveries to the Buyer, even if they are not a part of the same order.
- 3.6 Payments of the prices shall be ensured by the trade credit insurance notified by SWISS KRONO to the Buyer or by bank guarantee in the form acceptable to SWISS KRONO.
- 3.7 In case of the Buyer's alleged counterclaims against SWISS KRONO, the Buyer shall only be entitled to offsetting, retention or price reduction if the Buyer's counterclaims are undisputed by SWISS KRONO or if the court of law has finally decided in favour of the Buyer.
- 3.9 The assignment of the Buyer's claims against SWISS KRONO shall be precluded.

### **4. Delivery**

- 4.1 SWISS KRONO shall at the earliest be obliged to deliver the goods ordered when payment of the price agreed in accordance with sec. 3.6 has been ensured
- 4.2 The goods shall be delivered in accordance with the agreed terms of delivery (Incoterms 2020).
- 4.3 In case of delivery hindrance that is beyond SWISS KRONO's control, SWISS KRONO is entitled to suspend delivery or withdraw from the contract.
- 4.4 The confirmed delivery dates will be met to the best of our ability. Partial deliveries or delayed deliveries do not entitle the recipient to withdraw from the contract. If the Buyer suffers damage as a result of a delay in delivery, SWISS KRONO shall only be liable for such damage if the delay is due to gross negligence.

- 4.5 The Buyer shall accept the goods after SWISS KRONO's notification of readiness for collection. Were the goods not taken in possession by the Buyer within 5 working days of notification of readiness for collection, the goods shall be deemed accepted and can be stored at the expense of the Buyer. The Buyer shall compensate SWISS KRONO for the damage caused by the delay in acceptance. Further consequences of default of acceptance shall not be affected.
- 4.6 In case of damage occurred during the transportation, the Buyer shall in any case inform the carrier thereof and make a notification of damage in writing on the shipping documents. The occurrence of the damage shall be confirmed by the carrier.

## **5. Passing of risk**

In case of accidental destruction or accidental deterioration of the goods, the risk of the purchase price payment obligation shall pass in accordance with the agreed terms of delivery (INCOTERMS 2020).

## **6. Warranty**

- 6.1 The Goods produced by SWISS KRONO consist mainly of wood which is a natural product. Its inherent features lead to a range of natural colours, structures and other differences. Therefore, those are not defects.
- 6.2 Insignificant deviations from the product description and measurement errors within the EN standard do not constitute defects.
- 6.3 After the passing of risk pursuant to sec. 5, the Buyer is obliged to investigate the goods immediately for damage, including wrong deliveries and quantity of errors. In any case, the complaint shall be submitted in writing to SWISS KRONO no later than 5 working days after receipt of the goods. The complaint shall contain the detailed description of the alleged breach of the contract and its cause. The goods shall be deemed approved if the Buyer omits to complain according to the rules laid down above. Defective goods may not be processed. The submission of the complaint shall not entitle the Buyer to refuse either acceptance of the goods or payment of the purchase price.
- 6.4 Warranty claims presuppose that the Buyer holds the defective goods available for SWISS KRONO's inspection and the goods have been fully paid upon maturity. Prior to the return being shipped, the Parties shall agree on the return.
- 6.5 If the Buyer's complaint has been submitted in time and in compliance with these Terms and Conditions, and if the goods are defective according to this contract, SWISS KRONO shall replace the defective goods by supplying goods in accordance with the contract within a reasonable time and free of charge. Any further Buyer's claims for damages (consequential damages are excluded, i.e. damages for any physical damage, power failures, indirect and direct financial loss, machinery or devices, failure to supply, deliver or distribute any material or products, cancellation or termination of orders or contracts or negotiations or any other consequence whether foreseeable or not which arises from the delivery of defective goods, damages of third parties, are excluded. The Buyer shall not be entitled to either the termination of the contract or to the purchase price reduction.
- 6.6 The warranty period shall be maximum 24 months beginning from the time point of passing of risk in accordance with Article 5 above.
- 6.7 Any Buyer's claims under defect warranty shall be forfeited from the time of beginning of any processing, modification or improper storage or handling of the goods supplied by SWISS KRONO.

## **7. Withdrawal from the Contract**

- 7.1 SWISS KRONO may withdraw from the contract if the Buyer has failed to fulfil his obligations to cooperate during the second time limit set by SWISS KRONO to the Buyer or if SWISS KRONO's performance became impossible for unforeseeable reasons for which SWISS KRONO is not responsible and which cannot be eliminated at reasonable expense due to permanently insurmountable obstacles to performance.
- 7.2 SWISS KRONO may withdraw from the contract if the Buyer failed to ensure the payment of the agreed price according to the Article 3.6 by the agreed delivery deadline.
- 7.3 In case of SWISS KRONO's withdrawal, the Buyer shall not be entitled to any compensation, indemnity, damages or other payment in respect to such withdrawal excluding the reimbursement of Buyer's payments made according to this contract.

## **8. Liability**

SWISS KRONO shall be liable for property damage and financial loss only in case of intent or gross negligence. SWISS KRONO's liability is limited to damages and any loss typical for this kind of contract and foreseeable by concluding of this contract that may occur by the Buyer or any third party arising from this contract or otherwise.

## **9. Retention of the title**

The ownership of the goods delivered shall remain by SWISS KRONO until payment under the sale and delivery contract is received in full.

## **10. Severability and Requirement of Written Form**

10.1 If any provision of this contract should be or become void or unenforceable then such provision shall be severed from this contract. The remaining provisions of this contract shall not as far as possible be changed or modified and all other terms and conditions not so severed shall continue in full force and effect. The parties shall be obliged to agree on a new regulation of the matter most closely approximating the purpose intended by the void provision.

10.2 There were no verbal side agreements. Any amendment to the contract shall be in the form of a document in writing. The same applies to the waiver of the requirement of written form. The requirement of written form shall apply especially for notifications of withdrawal and setting of deadlines.

## **11. DATA PROTECTION**

11.1 The Parties agree to share with each other certain Personal Data (such data received by the other Party: "Shared Data") on the basis of Article 6 par. 1 (b) of the EU General Data Protection Regulation (GDPR) for purposes of the performance of this Agreement only ("Permitted Purpose"). No special categories of personal data (sensitive data) will be transferred and processed. The Party receiving Shared Data from the other shall be referred to herein as the "Data Receiver" and the Party transferring Shared Data to the Data Receiver shall be referred to herein as the "Data Discloser".

Details of the Shared Data:

(a) Categories of data subjects concerned:

- Individuals involved in the execution of the Agreement

(b) Categories of Shared Data

- Contact details, such as name, position, location, telephone number or other communication channel data
- No special categories of data will be transferred and processed

11.2 The Data Receiver shall at all times process Shared Data in a professional manner in compliance with applicable law and this Agreement exercising due skill, care and diligence and shall implement and apply appropriate, state of the art level of technical and organizational data security standards.

11.3 Any disclosure or transfer of Shared Data by the Data Receiver to a third party is only admissible if required for the Permitted Purpose and must comply with applicable laws, in particular Articles 25, 26 GDPR.

11.4 Where required under applicable law, either Party shall inform data subjects concerned about the sharing of Shared Data under this Agreement. The Data Receiver shall promptly notify the Data Discloser of any requests, objections or any other enquiries of Data Subjects under applicable laws regarding the processing of Shared Data ("Data Subject Requests") which may give rise to any legal obligation or liability or otherwise concern the legitimate interests of the Data Discloser.

11.5 In the event of a Personal Data Breach (Article 33 GDPR) or disputes with or claims of data subjects, supervisory authorities or other third parties the Parties will promptly notify and inform each other provided that such event concerns the Processing of Shared Data and may give rise to any legal obligation or liability or otherwise concern the legitimate interests of the other Party. The Parties shall reasonably coordinate and support each other in relation to any such event.

11.6 The Data Receiver shall promptly delete Shared Data once they are no longer required for the Permitted Purposes unless the Data Receiver is required or legally permitted under applicable law to continue processing the Shared Data.

11.7 Our privacy policy can be found on our website at <https://www.swisskrono.com/ch-en/data-protection-customers-vendors/#/>.

## **12. Place of Performance, Jurisdiction and Choice of Law**

The place of fulfilment and jurisdiction for both parties is Menznau, Switzerland. This contract is subject to Swiss law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.