



Terms and conditions of sale (June 2019)

The following Terms and Conditions apply to any sale of products, drawings and any auxiliary services (hereinafter collectively "Products") by Electronic Wood Systems GmbH, Hamelin, Germany ("EWS").

1. Offer and Acceptance

EWS' quotation or proposal is a binding offer (unless stated as non-binding) by EWS to Purchaser. Purchaser's order and/or acceptance of the Products sold to Purchaser constitute an acceptance of EWS offer including these Terms and Conditions. Any terms and conditions of Purchaser conflicting with or amending these Terms and Conditions shall not become part of the Contract even if not objected by EWS. In case of supply of software, the EWS Plant Software License will be part of the offer. The offer together with these Terms and Conditions, when accepted shall be the sole agreement between EWS and Purchaser, constituting the entire contract between them and superseding all previous agreements, representations, communications, either oral or written in relation to the offer and/or the Product. Any variation, amendment, cancellation or waiver of the offer and these Terms and Conditions and the contract resulting from them (the "Contract") and any acceptance of other terms and conditions is binding upon EWS only by a written acknowledgement signed by an authorized representative of EWS.

2. Delivery / Force Majeure

Delivery of the Products shall be ex manufacturer's works if not otherwise specified by EWS. Any delivery term including but not limited to ex works and F.O.B. shall be construed in accordance with INCOTERMS latest revision. Any dates indicated by EWS in relation to the Products are binding only if so expressly stated. EWS will not be liable for non-performance and/or delays of any obligation or time of performance caused by any event of force majeure such as labour dispute including a strike, slowdown or lockout, acts or regulations of public authorities, shortage of supplies, materials or shipping space, plant breakdown, power failure, delay or interruption of carriages, riot, accident, fire, flood, acts of God, or other causes not due to EWS negligence.

3. Inspection

Within ten business days of delivery of the Products, Purchaser shall inspect the Products to check for conformity. Purchaser shall thereafter notify EWS in writing of any shortage, loss or damage and any other nonconformity within five business days of inspection. The failure to provide EWS with such notice within this time period shall constitute an unqualified acceptance of the Products and a waiver of all claims for any nonconformities, including a waiver of any right of revocation of acceptance.

4. Termination

The Contract is not subject to termination for convenience by Purchaser unless Purchaser obtains specific written approval from EWS. If the Contract is terminated for convenience, Purchaser shall pay EWS reasonable termination charges, for expenses already incurred and commitments made by EWS in connection with the Contract and performance thereunder, including all of EWS's overheads and anticipated profit attributable to the Products.

5. Warranty

5.1 EWS warrants that the Products at the date of passing of risk meet the agreed specification and the state of the art in relation to design material and workmanship. This warranty extends only to the Purchaser, is non-transferable and does not cover normal wear and tear or damage caused by improper storage, use, installation, or maintenance, chemical influences or pollutants or any other events

outside EWS's responsibility. In the event that the Products fail to meet this warranty and Purchaser has given written notice to EWS about the defect within a period of limitation of one year from the date of readiness for dispatch of the defective Product, as Purchaser's sole remedy, EWS will repair or replace, at its option, the defective part(s) free of charge to Purchaser provided that the Purchaser returns the Products to be replaced or repaired to EWS. Purchaser shall bear the costs of removal, shipment and reinstallation of the Products. Purchaser must allow EWS access and permission to inspect the Products at their site of installation. Purchaser shall only be entitled to remedy the defect himself or by a third party and demand reimbursement of the reasonable costs incurred by the necessary remedial work (except for removal, shipment and reinstallation), if EWS fails to remedy the defect to the Product covered by the foregoing warranty within a reasonable time fixed by Purchaser by written notice to EWS. Purchaser shall be entitled to cancel the Contract in case of a substantial defect to the Product covered by the foregoing warranty which cannot be remedied by EWS for reasons attributable to it, Purchaser or a third party. The cancellation shall become operative only with regard to that portion of supplies which cannot be used by the Purchaser as a result of the defect. In case of such cancellation EWS shall refund to Purchaser the portion of the price attributable to the cancelled part of the Contract against return of the defective Product.

5.2 Except for the above warranty and the warranty pursuant to Clause 12, EWS does not assume any further warranty, in particular not the warranty for a specific or general fitness for use, durability and functions, unless expressly agreed in writing. Section 5.1 shall apply for any such additional warranties accordingly.

6. Prices

The price of the Products stated in EWS's offer is based upon costs and conditions existing on the date of quotation and is subject to change, until unqualified written acceptance of EWS's offer by Purchaser.

7. Taxes

Purchaser shall pay in addition to the price all local, state or federal sales, use, excise, privilege, occupational, personal property or other similar taxes, customs duties and any other fees or levies, if any in respect of the sale, delivery and provision of the Products. In the event any taxes are paid by EWS, Purchaser will reimburse EWS therefor forthwith upon demand.

8. Payment

Unless otherwise specified by EWS in writing, payment shall be made net cash fifteen days from the date of invoice at EWS account. If Purchaser fails to fulfil the terms of payment or if EWS has any reasonable doubt at any time regarding Purchaser's financial ability, EWS may demand different terms of payment and/or decline to make further deliveries and may claim payment of all invoices, even if not yet due for payment. In the event Purchaser fails to make payment when due, Purchaser shall pay interest at a rate of one per cent (1 %) per month on the amount of any unpaid payment. Purchaser shall pay, in addition to all other sums payable hereunder, the reasonable costs and expenses incurred by EWS in connection with all actions taken to collect outstanding payments or to preserve and protect its rights under the Contract, whether by legal proceedings or otherwise including without limitation reasonable attorneys' fees and court costs. Purchaser shall neither retain payment on account of any claim nor shall Purchaser offset any claim against the purchase price.

9. Reservation of Title / Security Interest

EWS shall retain title to the Products until it has received all payments due for the supply of the Products. Purchaser shall at the request of EWS assist it in taking any measures necessary to protect EWS title to the Products at their location after shipment. EWS shall be entitled to

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ensure the Products until transfer of title against theft, breakage, fire, water and other damage at Purchaser's cost, unless Purchaser has taken out the insurance policy himself. Purchaser shall not sell or grant a lien on or pawn the Products or use it for security in any other manner. In case of seizure, lien, confiscation or other claims to the Products by a third party, Purchaser shall inform EWS immediately. If Purchaser is in default with any of its obligations under the Contract, particularly by delayed payment and Purchaser has not cured the default within a reasonable time fixed by EWS written notice, EWS shall be entitled to terminate the Contract and Purchaser shall return the Products to EWS. EWS may terminate the Contract without any notice, and in such case, Purchaser shall immediately return the Products to EWS, if Purchaser goes into liquidation, becomes bankrupt or makes a general assignment for the benefit of its creditors. Any connection or combination of the Products with other items shall not affect the reservation of title to the Products. Otherwise Purchaser shall grant EWS co-ownership of the aggregate of the combination according to the proportionate value of the Products in relation to the value of the other items connected to, or combined with, the Products prevailing at the time the items were connected or combined. In such case Purchaser shall retain ownership or co-ownership as trustee for Purchaser, if required. In case a reservation of title is not available, EWS reserves a first priority security interest in the Products until the purchase price therefor and any other sums payable hereunder is paid in full by Purchaser. Purchaser hereby grants EWS a power of attorney to execute any documents including financing statements relating to the Products, to protect EWS security interest in the Products.

10. Confidentiality

Purchaser hereby acknowledges that the Products including - without limitation - all specifications, drawings, descriptions and illustrations are confidential unless already in the public domain prior to its disclosure and are proprietary to EWS. Purchaser shall not disclose such information to anyone for any purpose other than for the use of the Products in its premises.

11. Purchaser Specifications

EWS assumes no obligation to examine Purchaser's specification requests and other information and disclaims any liability arising directly or indirectly from any inaccuracies or omissions in such information.

12. Patents, Intellectual Property Rights

The sale of the Products under the Contract shall not grant to Purchaser any right or license of any kind under any patent, utility model or copyright except for using the Products on a non-exclusive basis for its own premises. In case the delivery of the Product by EWS to Purchaser constitutes an infringement of any patent, utility model or copyright for reasons others than described in para 3 herein below, EWS shall at its own expense at its option (i) defend or settle any such claim of which it is promptly notified and will pay all damages and costs awarded to Purchaser in any such infringement proceeding up to the price of the infringing Product, (ii) replace the Product by a non-infringing Product or (iii) take back the infringing Product against return of the price for such Product. Use of the Product by the Purchaser constitutes an infringement of any patent utility model or copyright, and if such infringement is based on designs, specifications or instructions by Purchaser, the operation of equipment by Purchaser incorporating the Products or the application of a process by Purchaser while operating such equipment, Purchaser shall, at its own expense, defend or settle any such claim of which it is promptly notified and will pay all damages and costs awarded against EWS in any such infringement proceeding.

13. Intermediate sale / Commission

Intermediate sales by our permanent representatives or resellers require the express permission of EWS. If intermediate sales are made without the consent of EWS, EWS shall be entitled to demand a contractual penalty amounting to one hundred percent (100%) of the order value from the intermediate seller. Commission payments from intermediary transactions shall only be paid to those intermediaries with whom commission agreements exist. In order to claim

commissions from EWS, a commission invoice from the intermediary is required, which must be submitted to EWS within 3 months of delivery of the order. If the commission invoice is first submitted after 3 months have elapsed, but before 6 months have elapsed after delivery, the brokerage commission shall be reduced to fifty percent (50%) of the agreed commission rate. If the commission invoice is not submitted until 6 months have elapsed after delivery, any commission claim against EWS shall lapse.

14. Indemnification

EWS agrees to defend, indemnify and hold harmless Purchaser with respect to claims for bodily injury, including death or damage to tangible property caused by (i) a defect in the Product making it unreasonably unsafe or (ii) the negligence of EWS, its officers and assigns. Purchaser hereby agrees, at its own expense, to defend, indemnify and hold harmless EWS against any and all losses, costs, damages, claims, liabilities or expenses of any kind, including without limitation reasonable attorneys' fees, arising out of or resulting from, directly or indirectly, any injury or death to persons or damage to tangible property caused by (i) designs, specifications or instructions provided by Purchaser for the Products or (ii) the operation of equipment incorporating the Product or (iii) improper use, installation or maintenance of the Products or any use not contemplated in the Contract or contrary to the instructions for operation and maintenance of the Product issued by EWS or the manufacturer of the Product.

15. Disclaimer, Limitation of Liability

Save as expressly provided for in clauses 5, 12 and 14 here in above, EWS shall not be liable for any claims, expenditures, losses, third party claims, damages of any kind, including direct, indirect, consequential, special, incidental and/or punitive damages of any kind and nature under any circumstances, loss of use, income or profit, irrespective of the legal reason, arising directly or indirectly out of or occasioned(i) by the sale, delivery, installation use, repair or replacement of the products whether such damages are based on a claim of breach of express or implied warranty, tortious conduct including negligence, strict liability or any other cause of action, or (ii) by any other breach of any obligation and/or condition of the contract or of the law or any representation whether negligent or not.

16. Severability, Invalidity

If any portion of the Contract shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, the valid and enforceable provisions will continue to be given effect and bind the parties thereto. The invalid or unenforceable provision shall be replaced by a provision which comes closest to the invalid or unenforceable provision.

17. Governing Law, Arbitration, Venue

The Contract and the relation between the parties for all purposes shall be construed and enforced in accordance with and governed by the substantive laws of Switzerland under exclusion of the UN-Convention on Contracts for the International Sale of Goods. All disputes out of or in connection with the Contract and the relation between the parties shall be exclusively and finally settled by arbitration according to the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed according to said Rules. Venue shall be Hamelin, Germany.