

WASA AG General Conditions for Sale and Supply / Product Information

I. General information

- (1) All of our domestic supplies are subject exclusively to the following Conditions if the customer is a business (§ 14 of the Civil Code (*Bürgerliches Gesetzbuch – BGB*), a public-law legal entity or a special fund under public law. The Conditions specifically govern contracts for the sale and/or supply of movable objects (“Goods”) irrespective of whether we make the Goods ourselves or purchase them from suppliers (§§ 433, 650 of the Civil Code).
- (2) We hereby expressly object to such terms and conditions as may oppose, deviate from or amend these Conditions. Even insofar as we know of them, such terms and conditions are incorporated into the contractual arrangement upon closing only if and to the extent that we expressly consented to them in writing, and such instance of deviation then applies only on a case-by-case basis. The requirement as to the written form also applies in the event that we effect delivery in full knowledge of the customer’s terms.
- (3) Unless otherwise agreed, moreover, the below Conditions apply as a master agreement – as amended or most recently communicated to the customer in text form – to all subsequent orders with the customer, and even in the event that these Conditions are not specifically referenced once more.
- (4) At the time of closing, there were no oral subsidiary agreements. Insofar as any came into force following the execution hereof, such individual agreements (including subsidiary agreements, amendments and addenda) as the customer may have formally entered into with us take precedence over these Conditions. The content of such individual agreements is established by written agreement or – if there is no written agreement, and provided that the customer does not furnish evidence to the contrary – our confirmation of such change vis-à-vis the customer. Declarations of legal import as well as the customer’s notices regarding the contract (e.g., setting deadlines or notices of defect, rescission or abatement) are to be provided in writing – in written or text form (e.g., by letter, email or facsimile). Formal requirements imposed by law as well as additional proof, especially when there is doubt about the legitimacy of the declaring party, are not affected.
- (5) The customer may view the Conditions at any time online under <https://www.wasa-technologies.com/en/terms-and-conditions.html>, where they may also be downloaded or printed.
- (6) Notes on processing personally identifiable data are found in our Privacy Notice for WASA AG Customers and Interested Parties (<https://www.wasa-technologies.com/en/Datenschutzinformationen.html>).

- (7) References to the applicability of legal provisions serve purposes of clarification only. This is why the legal provisions apply even in the absence of such clarification, unless they are directly modified or expressly excluded herein.

II. Trade practices

Aside from these Conditions, the Tegernsee Rules, as amended, apply to wooden stacking systems insofar as such rules do not conflict with these Conditions and the parties hereto did not agree otherwise.

III. Closing, scope of delivery, quality of plastic boards

- (1) Our offers are non-binding in nature. Absent special arrangements, a contract comes into force upon the customer's receipt of our written order confirmation (facsimile and email being sufficient). If we do not confirm an order, a contract comes into force nevertheless upon our execution thereof, at the latest.
- (2) The scope of any supply is determined by our written order confirmation. In the event that we submitted an offer that must be accepted within a certain period of time, and the customer does so, such offer determines the scope of supply.
- (3) We reserve the right to deliver +/- 10% of the ordered quantity and effect modifications if and to the extent that doing so does not place an unreasonable burden on the customer.
- (4) We reserve property rights and copyrights with respect to all records provided, such as technical documents (e.g., drawings, plans, calculations and DIN-norm references), as well as other product descriptions, including those in electronic form.
- (5) The use of recyclates in all-plastic boards may lead to variations in quality, including the surface roughness (± 0.5 mm) of the products. Likewise, organic, fibrous and rubber-like contamination cannot be ruled out. As a result of the use of various polymers of the styrene group, there may also be chemical interactions during the thermal reshaping process that make it impossible to avoid cavities. To such extent, samples supplied to customers for testing purposes at their request are non-binding in nature and for demonstration only. Notwithstanding other agreements, the phenomena described, which are an unavoidable by-product of production, do not affect the plastic boards' fitness for manufacturing.

IV. Prices

- (1) Unless otherwise agreed, prices are ex works and include loading at the plant, but exclude VAT at the rate then in effect and mandated by law, along with shipping and packaging costs. The choice as to shipping route and delivery method is ours. Insofar as we are not obligated to see to shipping, we will not insure the Goods against damages during transit. The customer bears the cost of transportation insurance if such coverage is expressly desired.

- (2) Default of payment is determined according to applicable legal provisions. In the event of default in payment, which is determined on the basis of our receipt of payment, we are entitled to charge default interest at the rate stipulated by law (at this time: 9% above the prime rate). Our right to assert further claims for damages is not affected. In relations with merchants, our claim to commercial maturity interest (§ 353 of the Commercial Code (*Handelsgesetzbuch - HGB*)) is not affected.
- (3) Unless provided otherwise in writing, the agreed price is payable in cash and in full as follows:
 - (a) 30 percent promptly upon receipt of our order confirmation and invoice or upon acceptance of our offer and receipt of invoice; and
 - (b) 70 percent upon invoice receipt two weeks prior to readiness for dispatch.
- (4) The customer is entitled to rights of set-off or retention only insofar as its claim has been effectively established or is undisputed. In cases of deficient delivery, the customer's reciprocal rights, including but not limited to those pursuant to item X (3) of these Conditions, are not affected.
- (5) In the event that the satisfaction of a payment claim is in jeopardy on account of the deterioration of the customer's financial circumstances, irrespective of the cause, which occurs or is brought to our attention after the closing, we may demand payment in advance or adequate security and are further permitted to withhold Goods not yet delivered and/or discontinue processing current orders.

V. Delivery periods

- (1) Delivery periods constitute estimates and are not binding upon us unless we have confirmed a delivery period in writing in a binding fashion.
- (2) The delivery period commences on the day we dispatch our order confirmation. The delivery period is deemed to have been met so long as the Goods have left our plant or if the customer has been notified of the Goods' readiness for dispatch prior to the applicable deadline.
- (3) The delivery period will be extended by an appropriate amount of time in the event of industrial disputes, including but not limited to strikes and lock-outs, other cases of Force Majeure, such as embargos, fire, floods, severe weather, epidemics and pandemics as well as other unforeseen obstacles beyond our control, provided that such obstacles can be shown to have exerted considerable influence on the completion or delivery of Goods. Such circumstances are not to be attributed to us even if they occur during a delay in delivery. We will inform the customer as soon as possible of the start and end dates of obstacles of the aforesaid kind. In the event that performance cannot be accomplished even within the extended delivery period, we are entitled to rescind the contract, either wholly or in part; in such a case, we will immediately refund any consideration that the customer has already paid.

- (4) If dispatch is delayed at the customer's wish, if the customer fails to effect timely acceptance, if it is deficient in providing mandatory assistance or if our delivery is delayed for other reasons to be attributed to the customer, we are entitled to demand compensation for any resulting damage, including added expenditures (such as storage costs). Starting one month from our notification of readiness for dispatch, the customer will be billed for any cost related to storage (if Goods are stored at our plant) at a rate of at least 0.5% of the invoice amount for each month of storage. If delivery is effected, the amount equals up to 5% of the invoice amount. If non-acceptance is final, the rate is capped at 10% of the invoice amount, although any further monetary claims are to be adjusted by such flat charges. The rate is to be increased or decreased depending on whether we furnish evidence of greater – or the customer of lesser – damages. After an adequate grace period was set and expired unproductively, we are further entitled to dispose of the object of supply and effect delivery to the customer within a delivery period that has been adequately extended. However, this clause does not affect the customer's agreed payment obligation.
- (5) Deliveries predating the expiry of the delivery period as well as partial deliveries are permitted.
- (6) In the event that we do not receive supplies in time even though we entered into appropriate covering transactions, and provided that neither we nor our supplier bears any culpability and there is no specific procurement obligation on our part, we will promptly notify the customer and provide an estimated new delivery window at such time. In the event that performance cannot be accomplished even within the extended delivery period, we are entitled to rescind the contract, either wholly or in part; in such a case, we will immediately refund any consideration that the customer has already paid.

VI. Delay in delivery, impossibility of performance

- (1) Notwithstanding the customer's right of rescission in cases of defective objects of supply [see items X (5) for material defects and XI (2) for legal defects below], the customer may rescind the contract on account of delays in delivery or in the event that performance has been made impossible only if such delay or impossibility is the result of a breach of duty on our part.
- (2) In the event of a delay in delivery and, where such grace period is not dispensable under applicable law, the unproductive expiry of a reasonable grace period set by the customer of at least two weeks, the customer must declare, in response to our request and within a reasonable period of time that we are to allot, whether it continues to insist on delivery, wishes to assert claims for damages and/or is rescinding the contract. If the customer fails to provide such declaration within the allotted period, it must not refuse delivery.
- (3) Claims for damages are subject to item XIII of these Conditions.

VII. Passing of risk

- (1) The risk as to the accidental demise as well as the deterioration of the object of supply passes to the customer immediately upon its collection of the Goods – otherwise, no later than upon the dispatch of the object of supply to the customer; this applies even if we have accepted additional liabilities, such as transportation and installation costs.
- (2) Should dispatch be delayed as a result of circumstances attributable to the customer, the risk according to para. 1 passes to the customer as soon as it is notified of the Goods' readiness for dispatch.

VIII. Retention of title

- (1) Any and all supplies remain our property until all claims that exist at the time of closing have been satisfied in full, irrespective of legal grounds. Insofar as we entered into contingent liabilities in the customer's interest, any and all supplies remain our property until we have been fully released from such liabilities. The same applies if the payments were made with respect to specially designated claims. In cases of current accounts, the retained title serves as collateral for our balance claim.
- (2) Should the customer fail to act as contractually agreed, and specifically, if it is in default in payment or breach of its obligation to handle the object of supply with care, we are entitled, subject to prior notice, to take possession of the object of supply and rescind the contract. Once the notice period has expired or, where such grace period is dispensable under applicable law, upon the occurrence of a breach of contract, the customer must surrender the object of supply. The customer is further obligated to allow our agents tasked with retrieving the object of supply to enter and drive onto the premises where the object of supply is located.
- (3) The customer may sell our property only in the regular course of business, only in accordance with its ordinary general terms and conditions and only as long as it is not in default in payment. It is entitled and authorized to resell reserved goods subject to the condition that any claims resulting from such resale pass to us pursuant to the paragraphs below. The customer must not dispose of reserved goods in any other way.
- (4) The customer hereby already assigns to us any claim from the resale of reserved goods to secure any and all of our claims listed in para. 1, and it must do so irrespective of whether the reserved goods are sold without or following processing, or whether they are sold to one or several buyers. We hereby accept such assignment.
- (5) The customer is entitled to collect on resale claims, although we may revoke such privilege at any time. The customer is not entitled to dispose of such claims by way of assignment. At our demand, the customer must notify third parties of the assignment to us.

- (6) Should the value of the sum of all collateral granted us exceed our claims by more than 20%, we are obligated as well as willing to return to the customer or release collateral granted us to the extent that it exceeds the agreed coverage threshold.
- (7) Should any execution or distress be levied upon the reserved goods, the customer must notify us without delay. It must further deliver to us such documentation as may be needed for information purposes as well as for the assertion of all of our rights. The cost of any action taken to defend against such third-party interference is to be borne by the customer unless such costs are effectively imposed upon and paid by a third party under court order.
- (8) The customer must adequately insure the reserved goods at its own expense against damages caused by fire, water, theft and transportation. With respect to any object of supply that is subject to retention of title, the customer hereby assigns to us any claim against insurers. We hereby accept such assignment.

IX. Notice of defects

- (1) Notices of defects and other complaints must be submitted without delay, but no later than ten days from the receipt of the object of supply; hidden defects are likewise to be reported immediately, but no later than ten days from discovery and up to twelve months from the receipt of the object of supply.
- (2) Following the expiry of the periods according to para. 1, warranty claims of any kind are excluded.

X. Warranty

- (1) The customer's rights in connection with material and legal defects (including the absence of such quality or shelf life of the object of supply as we may have warranted, as well as deliveries falling short of, exceeding or otherwise failing to meet applicable parameters, improper installation or inadequate instructions for installation – hereinafter "Defects") are subject to applicable legal provisions unless otherwise provided below. The special legal provisions governing the final delivery of unprocessed goods to a consumer are not affected even insofar as such consumer proceeds to process the goods (recourse against suppliers according to §§ 478 of the Civil Code). No claims may be derived from recourse against suppliers in the event that the customer or another enterprise continued processing defective goods – e.g., by installing them in another product.
- (2) In the presence of a Defect (on defects of title, cf. item XI below), we will, at our choice, remove the Defect (remedial performance) or replace the item, provided that the customer furnishes evidence to show that the Defect was already present at the time any related risk passed to the customer.
- (3) We are entitled to make any subsequent performance owed contingent on the customer's payment of any balance due. However, the customer may withhold such portion of the payment as may be proportionate to the Defect.

- (4) Based on prior consultation, the customer must afford us the time and opportunity needed to ascertain the Defect reported at the customer's place of business or directly at the place of use for the objects of supply. If we so demand, objects of supply that are subject to complaints must be returned to us without delay. If a report of a Defect has no merit, we are entitled to demand that we be reimbursed for any related expenditures incurred so long as the customer bears at least some responsibility – i.e., slight negligence. With respect to any actual Defect reported, we are to be afforded the time and opportunity needed to see to remedial performance or replacement in consultation with the customer. Parts replaced under warranty become our property. Warranty claims are excluded for repairs performed on the object of supply without authorization or our consent, along with any consequences thereof.
- (5) In the event that subsequent performance is unsuccessful – i.e., specifically, if we have effected remedial performance twice or replacement once, and neither remedied the Defect reported – or if we refuse or unreasonably delay remedial performance or replacement, or if remedial performance would impose an unreasonable burden on the customer for other reasons, or whenever the conditions of §§ 281 (2) or 323 (2) of the Civil Code are present, the customer may rescind the contract or assert claims for abatement, along with claims for damages and the reimbursement of related expenditures (in the latter case, in accordance with item XIII), in lieu of remedial performance or replacement.
- (6) Our right to refuse subsequent performance as permitted by applicable law is not affected. We may refuse any form of subsequent performance if the projected costs of remedial performance or replacement would exceed the purchase price of the object of supply owed under the contract by 100%. In such a case, the customer may avail itself of the legal remedies provided by law.
- (7) In the event that the object of supply was later relocated to a place other than the customer's place of business, and if the expenditures related to remedial performance or replacement, including but not limited to shipping / hauling, labour and material costs, increase as a result, the customer will reimburse us for such added expenditures unless the relocation in question is consistent with the intended use of the object of supply.
- (8) As a rule, we do not bear liability for Defects of which the customer knew, or would have known if not for gross negligence (§ 442 of the Civil Code), at the time of closing. The customer is barred from asserting warranty claims with respect to insignificant instances of deviation from the agreed condition, an insignificant impairment of utility, natural wear or damages that occur after the passage of risk if and to the extent that such damage comes about as a result of improper, negligent or excessive use, unsuitable or improper handling, deficient storage, the use of unsuitable equipment or due to special exposure not anticipated under the contract, and insofar as damages are not the result of our culpability. If the customer or third parties make unintended modifications or

perform improper maintenance, warranty claims are likewise excluded for such actions and any resulting consequences.

- (9) With respect to third-party products, our warranty is limited to the assignment of any claim we hold against the supplier of such product. In the event that the customer is unable to enforce its warranty claims against the supplier of a third-party product, our warranty applies as set forth herein. Such warranties as makers of third-party products may grant are not affected.
- (10) Used Goods are sold to the exclusion of any liability for Defects irrespective of culpability – i.e., free from any claim for subsequent delivery, remedial performance, rescission or abatement.

XI. Defects of title

- (1) Unless otherwise agreed, we must effect delivery free from third-party copyrights and industrial property rights (hereinafter “Property Rights”) only within the country of the place of delivery. Insofar as a third party asserts justified claims against the customer on account of the infringement of Property Rights in the form of objects of supply provided by us and put to their intended use, we are liable vis-à-vis the customer, subject to the paragraphs set forth below, for a period of twelve months from the time when the right was to pass to the customer.
- (2) At our choice, we will obtain a right of use for the objects of supply in question, modify the objects of supply to ensure that no Property Right is violated or replace the Goods in question. If we are unable to do so at a reasonable expense, the customer is entitled to the statutory rights of rescission or abatement. Our obligation to pay expenditures or damages is subject to item XIII.
- (3) However, we are obligated to adopt the foregoing measures only in the event that the customer promptly notifies us in writing of the claims asserted by third parties, does not acknowledge any violation and any defensive action as well as settlement talks are reserved for us. Should the customer discontinue its use of the objects of supply in the interest of mitigating damages or for other compelling reasons, it must notify the third party in question that such discontinuation of use is not tantamount to its acknowledgment of any infringement of Property Rights.
- (4) The customer holds no claim if and to the extent that it is itself responsible for the infringement of Property Rights. Claims on its part are further excluded insofar as Property Rights would not be violated if not for the customer’s special requirements, any application that we could not have foreseen or the customer’s modification of the Goods or its use thereof in combination with products that we did not supply.
- (5) Other claims on account of defects of title are excluded.

XII. Limitation of warranty claims

- (1) With respect to any warranty claims, the period of limitation according to §§ 438 (1) no. 3 and § 445b (1) of the Civil Code equals twelve months from delivery or, where acceptance was agreed, from the acceptance of Goods unless specifically agreed otherwise. The suspension of the period of limitation pursuant to § 445b (2) of the Civil Code ends after three years. The periods of limitation provided under sales law further apply to the customer's contractual and extra-contractual claims for damages based on Defects afflicting the Goods, unless the period of limitation would be shorter if the statutory period of limitation were applied (§§ 195, 199 of the Civil Code) in a given case.
- (2) In deviation from the foregoing, the statutory periods of limitation apply to the cases addressed in item XII (1) of these Conditions:
 - damages resulting from injuries to life, body or health, which are caused by a Defect attributable to us;
 - Defect is the result of an intentional or grossly negligent breach of duty on our part;
 - Defect is fraudulently concealed;
 - warranties (§§ 444 of the Civil Code); and
 - last contract in the supply chain according to § 445a of the Civil Code is a consumer contract (according to § 474 of the Civil Code).
- (3) Claims under the Product Liability Act (*Produkthaftungsgesetz - ProdHG*) as well as the provisions under applicable law concerning the suspension of the period of limitation as well as the suspension and resumption of such period are not affected. The foregoing clauses do not entail a change to the burden of proof to the customer's detriment.

XIII. Damages and rescission

- (1) Unless these Conditions provide otherwise, all of the customer's claims for the reimbursement of damages of any kind, including for the reimbursement of expenditures and indirect damages, are excluded. This is especially true for claims on account of breaches of duty under an obligation or tort. Such exclusion of liability also applies in the event that we have made use of (vicarious) agents.
- (2) In deviation from item XIII (1), however, our liability even in cases of our use of senior staff or (vicarious) agents is limited as set forth below irrespective of legal grounds:
 - a) We, our senior staff or (vicarious) agents are guilty of gross negligence or intentional misconduct;
 - b) We fraudulently conceal a Defect or specifically warranted the condition of the object of supply;
 - c) We intentionally or negligently inflicted injuries on life, body or health; and
 - d) We violate so-called cardinal obligations – i.e.,

- (aa) material breaches of duty that imperil the achievement of the contract's object; or
 - (bb) breaches of duty the discharge of which is required for the proper implementation of the contract and may routinely be relied upon by the customer ("Cardinal Obligations").
- (3) With respect to item XIII (2) (d) of these Conditions of Sale and Supply, however, our liability in cases of slight negligence is capped at the amount of foreseeable and typical damages.
- (4) Finally, the exclusion of liability does not apply to claims under the Product Liability Act or in cases of a warranty concerning quality or shelf life if and to the extent that such claims cannot be excluded or limited. The foregoing clauses likewise do not entail a change to the burden of proof to the customer's detriment.
- (5) Notwithstanding any right of rescission that the customer may hold in connection with Defects, the customer may exercise its right of rescission in cases of performance being impossible or default only in the presence of a breach of duty that is attributable to us. The customer may not rescind the contract before performance is due or in the event of a minor breach of duty on our part. Finally, its right of rescission is excluded if the customer is solely or largely responsible for the circumstances that might otherwise warrant rescission, or if circumstances arise through no fault of our own while the customer is in default in acceptance.

XIV. Place of performance, legal venue

- (1) The place of performance for both parties is Darmstadt.
- (2) The law of the Federal Republic of Germany applies. The application of CISG (United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980) is expressly excluded.
- (3) Provided that the customer is a business or a public-law legal entity, the location of our registered offices is agreed to serve as the legal venue for any and all current and future claims arising from or in connection with the business relationship. However, we are also entitled to file suit in the court with jurisdiction over the customer's registered offices.

XV. Special product information for wooden stacking systems

- (1) Stacking systems made from soft or hard wood must not be stored in the sun. Wooden boards should be sprayed during transfer. Wood is a living product; its structure may change when it dries out. Accordingly, the instructions for treatment supplied with delivery must be strictly observed. If they are not, warranty claims are excluded pursuant to item X (8) for any resulting disadvantages.

- (2) Stacking systems made from soft and hard wood are living natural products. As a result of the properties naturally occurring in wood as well as the possible discharge of wood vinegar, stacking systems made from both soft and hard wood may stick to and discolour surfaces, especially when boards are stacked on rock. This is an unavoidable natural process and does not give rise to warranty claims against us.
- (3) Tolerances: length: ± 2.0 mm; width: ± 2.0 mm; thickness: ± 0.5 mm. Flatness: Curvature not to exceed ± 2 mm across 1,000 length of material. Angularity: Difference in diagonals ≤ 5 mm.

XVI. Special product information for stacking boards WASA UNIPLAST®, WASA UNIPLAST ULTRA® and WASA WOODPLAST®

- (1) WASA UNIPLAST®, WASA UNIPLAST ULTRA® and WASA WOODPLAST® must not be stored in the sun. WASA UNIPLAST®, WASA UNIPLAST ULTRA® and WASA WOODPLAST® must be protected against the impact of one-sided heat impact. The instructions for treatment supplied with delivery must be strictly observed. If they are not, warranty claims are excluded pursuant to item X (8) for any resulting disadvantages.
- (2) For WASA UNIPLAST® and WASA UNIPLAST ULTRA®, moreover, note should be taken of the production width, which may be limited as a function of longitudinal orientation.
- (3) Tolerances: length: ± 2.0 mm; width: ± 4.0 mm; thickness: ± 0.5 mm. Flatness: Curvature not to exceed ± 2 mm across 1,000 length of material. Angularity: Difference in diagonals ≤ 8 mm.
Exterior dimensions may vary due to the impact of temperature fluctuations while in use.

XVII. Board weights, tolerances

The information provided in items XV (3) and XVI (3) as well as data on board weights and dynamic deformation are based on theoretical calculations and are thus non-binding in nature. All tolerances provided reflect the time of dispatch.

Data on dynamic deformation represents estimates and invariably refers to the increase in dynamic deformation as a result of the product weight stated immediately following load application at an ambient temperature of approx. 20 degrees Celsius. The values stated may vary on account of a possible prior deformation of the stacking boards and/or higher ambient temperatures. Accordingly, the specifications provided represent approximations and do not constitute contractual or other arrangements or warranties as to quality within the meaning of the Civil Code.