

General Terms and Conditions of Sale

1. General, Application 1.1 The following general terms and conditions of sale (“Terms of Sale”) of Europcell GmbH, Hanau, Germany, apply to all our offers, sales, deliveries and services. These are also applicable to all future transactions of a similar nature between the parties, even when not expressly mentioned or separately agreed upon. 1.2 Conditions of the customer which conflict with or deviate from our Terms of Sale are not recognized unless their validity has been explicitly approved in writing.

2. Offer, Formation of Contract 2.1 Our offers are non-binding and subject to change, unless they are explicitly denoted as binding. 2.2 Insofar as the order constitutes an offer within the meaning of sec. 145 BGB (German Civil Code), we are entitled to accept the offer within two weeks. The contract shall be deemed concluded only upon confirmation of the order by us in written form (e.g. letter, Email or fax) or in case we have commenced with the delivery of the goods. 2.3 Amendments and modifications of the contract including these Terms of Sale must be made in writing in order to become effective. Any individual oral agreements shall be valid only upon written confirmation.

3. Quantity and Quality of Paper and Paperboard

3.1 With reference to the General Trade Rules For Sales of Paper and Paperboard, the following terms on quantity and quality shall apply where paper and paperboard form the subject of the contract. 3.2 The delivered quantity is expressed in and based on weight, which is determined at the time when the goods are manufactured and packed. For reels, and for sheets packed in bulk, the weight is deter-

mined gross for net - for reels wrappings, cores and plugs included and for sheets wrappings included. 3.3 For paper in sheets counted and reamwrapped, the weight is the nominal weight as defined in para. 3.7. 3.4 The delivered quantity is decisive for the amount of money to be paid by the customer and also for determining whether there is such deviation from the contracted quantity that the purchase shall not be considered to have been completed in accordance with the contract. 3.5 The rights of the customer in accordance with clause 10 below are always reserved in the event of deviations in grammage or size, which exceed the tolerances stated in paras. 3.8 and 3.9.

3.6 Quantity Tolerances An order for paper or paperboard shall be deemed to have been fulfilled in accordance with the contract if we deliver goods that do not deviate from the contract quantity by more than the tolerances stipulated in paras. A, B and C below. Where a delivery comprises several lots as defined in para. 3.7, each lot shall be considered separately.

A. For grammages up to and including 180 g/m2 (with the exception stated in C below)

Contracted quantity	Permitted deviation
Under 1 ton	± 15 %
1 ton but less than 5 tons	± 10 %
5 tons but less than 10 tons	± 7.5 %
10 tons but less than 100 tons	± 5 %
100 tons and over	± 3 %

For colored qualities a further deviation of ± 2.5 % is permitted.



B. For grammages over 180 g/m² (with the exception stated in C below)

Contracted quantity	Permitted deviation
Under 5 tons	± 15 %
5 tons but under 15 tons	± 10 %
15 tons but and over	± 5 %

For colored qualities a further deviation of ± 2.5 % is permitted.

C. For liner and fluting irrespective of grammage

Contracted quantity	Permitted deviation
Under 10 tons	Special agreement must be reached
10 tons but less than 20 tons	± 15 %
20 tons but under 50 tons	± 10 %
50 tons but less than 100 tons	± 7.5 %
100 tons and over	± 5 %

In respect of A, B and C, the stated deviations shall be doubled downwards and upwards respectively where we have stipulated for a maximum or minimum weight without any margin for excess or shortage.

3.7 Definitions Delivery means the total amount of goods covered by one contract and delivered at one time. Lot means one or more units of paper or paperboard of a single kind and of specified characteristics, made by one and the same mill and delivered at one time. Unit means a reel, bale, pallet, parcel

Table A: Tolerances for different kinds of paper

Weight of lot, tons	Printing and writing papers, 35-80 g/m ²	Creped and coated papers	Other paper qualities
	%	%	%
1 (minimum)	± 5.0	± 9.0	± 7.0
5	± 3.6	± 6.5	± 5.1
10	± 3.2	± 5.7	± 4.4
20	± 2.7	± 4.9	± 3.8
50	± 2.3	± 4.1	± 3.2
100	± 2.0	± 3.6	± 2.8
500	± 1.4	± 2.6	± 2.0
1,000	± 1.3	± 2.3	± 1.8
3,000	± 1.0	± 1.8	± 1.4

For lots of paper of intermediate magnitudes the tolerances are obtained by linear interpolation.

or other transportation package. Grammage means the weight in grams per square meter of paper or paperboard. Ordered grammage means the grammage specified in the contract. Actual grammage of a lot of paper or paperboard is the arithmetic mean of the grammage as determined by sampling and testing the lot according to recognized standardized methods such as ISO 186, SCAN-P 6:75 or ISO 536. For newsprint, mechanical printings, magazine paper, liner and fluting the actual grammage, however, shall refer to the moisture content of these products at the time of manufacture. Nominal weight for a delivery of sheets means the delivered number of sheets x their contracted area x the contracted grammage. Tolerance with respect to grammage means the allowed difference between ordered and actual grammage expressed in percent of ordered grammage. Tonne or ton (also when abbreviated to t) means 1,000 kilograms.

3.8 Grammage Tolerances A lot of paper or paperboard will be considered delivered correctly with regard to grammage when (i) the actual grammage in relation to the ordered grammage stays within the tolerances given below in tables A and B for paper and paperboard respectively and (ii) the test values for individual units in relation to the ordered grammage stay within the tolerances given below in the tables for one ton. If a delivery comprises two or more lots, the actual grammage of each lot must be determined separately.

Table B: Tolerances for different kinds of paperboard

Weight of lot, tons	Grammage ordered, g/m ²	
	< 450	≥ 450
1 ton but less than 15 tons	± 5 %	± 8 %
15 tons but less than 60 tons	± 4.0 %	± 5.5 %
60 tons and over	± 3.5 %	± 4.0 %

3.9 Size of Sheets and Width of Reels, Tolerances A delivery of paper or paperboard shall be deemed to have been completed in accordance with the contract if the delivered sizes (in the case of sheets, the width and length and in the case of reels, the width) differ from the contracted sizes by no more than stipulated below:

Sheets

Not trimmed	± 0.4 % not, however, exceeding ± 3 mm
Trimmed	± 0.2 % not, however, exceeding ± 3 mm

Reels (with trimmed edge)

< 400 mm	± 2 mm
400 mm but < 2,000 mm	± 3 mm
2,000 mm and over	± 5 mm

Minimum 95 % of the measurements must be within these tolerances.

4. Quantity and Quality of Wood Pulp

4.1 With reference to the General Trade Rules For Wood Pulp, the following terms on quantity and quality shall apply where wood pulp forms the subject of the contract. **4.2** Unless otherwise stated, the word tonne or ton (also when abbreviated to t) shall mean 1,000 kilogrammes air-dry weight, gross for net. The term air-dry shall mean ninety per cent (90 %) absolutely dry pulp and ten per cent (10 %) water. **4.3** The pulp shall be packed in bales of declared uniform weight and air-dry content or a specification to be given stating the weight and air-dry content and number of each bale. **4.4** Each bale shall bear a number or other identification mark to enable the time of manufacture to be determined by us in case of need. **4.5** For the convenience of chartering a margin of ten per cent (10 %) more or

less on the contract quantity is allowed. **4.6** When two or more shipments are made under the same contract, the margin for the total contract quantity may not exceed ten per cent (10 %) of what is due to be shipped with the last vessel to fulfill the contract. **4.7** If the customer disputes the air-dry content of the pulp invoiced, it must do so within a time limit of thirty (30) days after the discharge of the goods at the place of destination and base its claim on a test which must show a difference of more than one per cent (1%) in content of the air-dry pulp. That being the case the customer may submit its claim to us and at the same time furnish us with the details of the customer's test and with at least two names of suitable and competent analysts. If at the time there exists a valid list of analysts approved by the trade associations of the parties, the analysts shall in the first place always be chosen from that list. **4.8** If the parties fail to agree on the exact quantity within seven (7) days of us receiving the claim and the details of the test, a retest shall take place as soon as we have chosen one of the proposed analysts. If we have not made our choice within fifteen (15) days of the receipt of the names, the customer has the right to appoint one of the proposed analysts. **4.9** The retest shall be made in accordance with existing ISO Recommendations or for grades not covered by such recommendations according to a method agreed on between the customer and us. We shall have the right to be represented at the retest. Not less than one half (1/2) of the consignment in dispute shall be available for the retest otherwise no claim can be established. If the difference in net weight does not exceed one per cent (1%), as compared with the original invoice, the invoice shall stand as originally rendered. The analyst's findings shall be final and all expenses incidental to the retest shall be paid by the party in error. **4.10** The customer shall, however, in any case pay the

invoice when due. Final adjustment shall be made when the retest is completed and according to the result of the same. **4.11** If the customer disputes the quality of the pulp delivered, it must do so within the time limit of thirty (30) days after the discharge of the goods at the place of destination and within the same time state its claim as well as furnish us with the facts on which he is basing the said claim. **4.12** If the customer has made its claim as specified above and the parties cannot reach a settlement of the dispute, the matter shall be referred to arbitration and section 12.3 shall apply accordingly. Not less than sixty per cent (60%) of the consignment under dispute shall be available for the drawing of samples, which can be determined by the arbitrators, otherwise no claim can be established. **4.13** Should the pulp delivered be found on arbitration not to conform with the quality of the pulp according to the specification and/or sample sold on, but usable nevertheless by the customer in its normal production, the arbitrators shall award an adequate allowance to the customer, but should the pulp be found not so usable, the arbitrators shall award rejection. The arbitrators shall, however, be entitled to award rejection only if eighty per cent (80%) or more is left of the consignment in question. **4.14** In the event of an award of rejection or of an allowance of twenty per cent (20%) or over of the c.i.f. value on account of quality having been made in favor of the customer on two successive consignments of the same brand of pulp under this clause, the customer has the right to cancel the balance of the contract if only one brand is contracted for, and, if more than one brand is contracted for, to cancel all future deliveries of the brand which is the subject of the award. **4.15** The customer shall promptly unload and properly store and cover by insurance any shipment made to the customer pending a decision of the dispute. **4.16** The customer shall in any case pay the invoice when due. Final adjustment shall be made when the decision of the arbitrators is given and according to the result of the same.

5. Prices, Conditions of Payment **5.1** If the order confirmation does not provide otherwise, our prices are quoted "ex works" (place of delivery named in the order confirmation) and are inclusive packaging and exclusive any applicable Value Ad-

ded Tax. Duties, taxes and other charges as well as the costs of carrying out customs formalities payable upon export, where applicable, shall be borne by the customer. **5.2** Unless otherwise agreed in writing, the purchase price is due upon receipt of our invoice. From the respective due date, default interests in the amount of 8 % above the respective base interest rate p.a. as announced by the German Federal Bank from time to time shall accrue on the due amount. We reserve all rights to claim further damages for delay. Without prejudice to our other legal remedies, we shall be entitled to retain as a lump sum compensation of our default damages (including, without limitation, lost profits, default interests, costs and expenses caused by a default) any prepayment received from the customer in case the customer subsequently fails to meet its contractual payment obligations. We reserve the right to prove higher damages and the customer shall be entitled to prove that we have suffered no damage at all or only a substantially lower damage than the above lump sum. **5.3** The purchase price has to be transferred solely to the bank account specified in the invoice. An early payment discount deduction is only accepted if particularly agreed in writing. **5.4** In the event of changes of the costs for wages, material and distribution during the time period until delivery, we reserve the right to adjust our prices appropriately. This does not apply if fix prices have been expressly agreed for the order.

6. Offset, Retention The customer shall be entitled to offset claims only insofar as the customer's counterclaim is assessed in a legally binding judgment, undisputed or acknowledged by us. The customer is entitled to assert a right of retention only to the extent as his counterclaim is based on the same contractual relationship.

7. Delivery Period **7.1** Delivery is conditioned upon timely and proper performance of all duties of the customer. The defense based on non-performance of the contract shall remain reserved. **7.2** Delivery periods and dates announced by us are only approximate unless a fixed period or a fixed date has been expressly agreed in writing. **7.3** In the case that a non-compliance with an agreed delivery period occurs due to force majeure, labor dispute, unpredictable obstacles or other circumstances for which we are not responsible and if the hindrance is not only of temporary duration, we shall be entitled to withdraw from the contract in part or in full without becoming liable for compensation. In the event that the hindrance is of a temporary nature, the delivery period shall be extended for the duration of the hindrance plus an appropriate starting period. **7.4** In the event that the customer is in default of acceptance or if he culpably violates other duties to cooperate, we are entitled to demand compensation for the damages we incurred in this respect including any additional expenditures. Further claims remain reserved.

8. Delivery and Passing of Risk **8.1** The type of delivery, the place of delivery and the time of the passing of risk is determined in accordance with the contractually agreed INCOTERM commercial clause in force on the date the contract is concluded. The INCOTERM commercial clause provided in the order confirmation shall prevail. **8.2** If the order confirmation does not specify otherwise, delivery shall be effected "ex works" (place of delivery named in the order confirmation) in accordance with the INCOTERMS 2010, unless otherwise provided for herein. **8.3** In the event that the transport or acceptance of the goods is delayed for reasons for which we are not responsible, the risk passes to the customer from the date the customer has been notified that the goods are ready for dispatch or acceptance. In such case, we store the goods at the customer's expense and risk. **8.4** We are entitled to part deliveries if the part delivery is of use to the customer within the scope of the contractual intended use, the delivery of the remaining order is secured and the customer is hereby not subjected to substantial increased expenses (unless we accept to bear such expenses).

9. Retention of Title **9.1** We retain title of all goods delivered by us until the complete payment of all claims including any balances from a current account relationship. In the case of breach of contract, in particular default of payment, we are entitled to take back the goods at any time. In the event that we take back the goods, this shall not constitute a rescission of the contract unless explicitly declared by us in writing. After taking back an item of sale, we shall be entitled to its utilization; the utilization proceeds shall be set-off against the accounts payable of the customer with deduction of reasonable utilization costs. **9.2** The customer is obliged to treat the goods with due care until ownership has passed over to the customer; in particular, the customer is obliged to sufficiently insure the goods at own cost against fire and water damage and theft at the nominal value. The customer must inform us without undue delay in writing of any seizure or other intervention by third parties until ownership has passed over to the customer. Insofar as the third party is not able to reimburse us for the judicial or extrajudicial costs of an action concerning the assertion or defense of our rights to the goods, the customer is liable for the loss incurred by us. **9.3** The customer is authorized to resell the goods subject to retention only in the ordinary course of business. The customer hereby assigns to us in advance all claims against third parties arising out of such sale in the amount of the agreed final invoice total (including VAT), independent of the fact whether the goods were resold without or after processing. We revocably entitle the customer to collect the claims assigned to us in his own name. Our authority to collect the receivable ourselves remains unaffected by this. We undertake not to collect the receivables as long as the customer duly fulfills his payment obligations, is not in default for payment and especially no application for insolvency proceedings has been filed or cessation of payment is given. If this is the case, the customer is obliged to disclose to us upon our request the assigned receivables and their debtors, to provide to us the information necessary for collection, to hand over to us the related documents and to notify the debtor (third party) of the assignment. **9.4** In the event that the customer processes goods subject to retention, the processing of the goods is carried

out on our behalf and for our account. We directly acquire ownership of the produced objects or - in case the goods are processed jointly with items of other owners or the value of the processed goods exceeds the value of the goods subject to retention - joint ownership of the produced objects in relation to the value of the goods subject to retention to the newly produced objects. **9.5** If the purchased goods are inseparably mixed with other items which do not belong to us, we acquire joint ownership of the new objects in relation to the value of the purchased item to the other mixed items at the time of mixing. If the mixing is performed in such manner that the item of the customer is to be regarded as the principal item, the customer is obliged to transfer to us proportionate joint ownership. **9.6** In order to secure our claims against the customer, the customer assigns to us the claims against a third party which arise due to the attachment of the purchased goods to real property. **9.7** We undertake to release the goods subject to retention and the goods and claims in lieu of the goods subject to retention upon request of the customer as far as the value of our securities exceeds the value of the claims to be secured by more than 20 %.

10. Warranty and Liability **10.1** Without prejudice to the special provisions regarding the quality and quantity of wood pulp deliveries as set out in paras. 4.7 to 4.16, in respect of any warranty claim of the customer the following shall apply: **10.1** The precondition for any warranty claim of the customer is the customer's full compliance with all requirements regarding the inspection and notification duties established by sec. 377 HGB (German Commercial Code). If a defect becomes apparent during the inspection or at a later date, the customer is obliged to notify us in writing without delay. The notification shall only be deemed without delay if it is effected within ten (10) days after receiving the goods or otherwise within ten (10) days after the defect was discovered whereas the punctual dispatch of the notification shall be sufficient for the observance of the time limit. In the event that the customer neglects to promptly inspect the goods and/or to give notice of defects, the delivered goods are deemed accepted and our liability for the defect is excluded, unless the defect was not recognizable upon inspection.

10.2 Warranty claims become time-barred one year after delivery of the goods to the customer or third party named by customer at the agreed place of delivery. Any return of the goods shall only be permissible with our prior consent. **10.3** In the event of material defects of the delivered goods that have been existent at the time of the transfer of risks, we are, at our choice, obliged and entitled to subsequent improvement or replacement whereby our choice has to be made within a reasonable period. **10.4** If the supplementary performance fails, i.e. that at least two attempts of improvement fail, or as far as the supplementary performance may not be accepted as reasonable by the customer, the customer is entitled to choose either to withdraw from the contract or demand a reduction of the purchase price. **10.5** Claims for defects shall not exist in case of an only minor deviation from the quality or quantity agreed upon (see clauses 3 and 4), in case of a merely minor impairment in usability, in case of natural wear and tear, or loss or damage that arises after the risk has passed or which arises due to exceptional external influences not presupposed according to the contract. If the customer or a third party improperly carries out maintenance work or modifications, no claims based on defects may be asserted in respect of such work or modifications or the resulting consequences. **10.6** The customer shall have no claims with respect to expenses incurred in the course of supplementary performance, including costs of travel and transport, labor and material to the extent that the expenses are increased because the goods delivered by us are, at the instigation of the customer, subsequently transferred to a place other than the place of delivery, unless the transfer is in accordance with its intended use. **10.7** Recourse entitlements of the customer against us exist only in so far as the customer has not reached any agreements with its customer which exceed the mandatory statutory claims based on defects. For the extent of the recourse claim of the customer against us as per sec. 478 para. 2 BGB (German Civil Code) para. 10.6 shall be applicable accordingly. **10.8** Generally, for the condition of the goods, only the product description as well as the specifications and identifications provided in our offer or in our order confirmation is deemed agreed. In the event

of any discrepancies between the product description and our offer or our order confirmation, our offer or our order confirmation, as applicable, shall be exclusively relevant. **10.9** A warranty of qualities or durability requires a separate written agreement. References to ISO or DIN standards or other comparable standards are only intended to describe the goods in more detail and do not constitute a guarantee unless this has been specifically agreed in writing. **10.10** Any other claims of the customer shall be excluded unless otherwise specified in clause 11 below.

11. Limitation of Claims for Damages **11.1** Unless expressly agreed otherwise in writing, we shall only be liable in accordance with the provisions herein below. **11.2** Within the scope of statutory provisions, our liability for harm to life, body or health arising from willful or negligent conduct on our part or on part of one of our statutory representatives or vicarious agents is unlimited. **11.3** Our liability for other damages within the scope of the statutory provisions is limited to the following extent: **11.4** We are liable without limitation for damage caused by intentional conduct or gross negligence on our part or on part of one of our statutory representatives or vicarious agents, and for damage covered by a guarantee or warranty given by us. **11.5** Subject to limitation to compensation for typical foreseeable contractual damage, we are liable for damage arising in connection with violation of essential contractual obligations involving slight negligence on our part or on part of one of our statutory representatives or vicarious agents. Our liability for other cases involving slight negligence is excluded for all related cases. **11.6** The above-mentioned provisions also apply mutatis mutandis to our liability with regard to the reimbursement of expenditure to no avail. **11.7** Liability under the Product Liability Act (ProdHG) shall remain unaffected. **11.8** The above provisions do not imply a change in the burden of proof to the detriment of the customer.

12. Applicable Law, Place of Jurisdiction, Arbitration Clause **12.1** This contract and the entire legal relationships of the parties are exclusively subject to the laws of the Federal Republic of Germany, without regard to its provisions relating to conflicts

of laws. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. **12.2** The place of jurisdiction for all legal disputes between us and the customer is either Hanau (Germany) or the registered office residence of the customer, in accordance with our choice. **12.3** If the customer's registered office is located outside the European Union, the following arbitration clause shall apply instead of the preceding agreement on jurisdiction: Any dispute arising out of or in connection with the contract including any questions regarding its validity, shall - to the exclusion of ordinary courts - be finally settled under the rules of arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said arbitration rules. The place of arbitration is Frankfurt am Main (Germany). The applicable substantive law is the law of the Federal Republic of Germany, without regard to its provisions relating to conflicts of laws. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. The arbitration proceedings shall be conducted in the German language.

13. Other Provisions Should individual clauses of these Terms of Sale be invalid, either in part or in full, the validity of the other clauses or of the other parts of such clauses shall remain unaffected. An invalid provision must be substituted by the parties through a ruling which corresponds as closely as possible to the economic purpose of the invalid ruling and is valid.

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