

GENERAL TERMS AND CONDITIONS FOR CONSUMER SALES AND INSTALLATION OF HOUSE CONSTRUCTION PACKAGES AND ELEMENTS

Inspected and approved by the Consumer Ombudsman

This document is a translation of the original Finnish-language document "Talopakettien ja -elementtien kuluttajakauppaa sekä asennusta koskevat yleiset sopimusehdot". In case of any dispute or inconsistency, the Finnish-language version shall govern.

1 SCOPE OF APPLICATION

1.1

Contracts between a trader (seller/manufacturer) and a consumer (buyer) concerning the sale and installation of house construction packages and elements (goods) shall comply with the following terms and conditions except where otherwise agreed in writing.

1.2

In addition to these terms and conditions, the contract between the buyer and the seller shall be governed by the Consumer Protection Act.

1.3

Member enterprises of the Finnish Association for Manufacturers of Prefabricated Houses (PTT) have also agreed on common ethical principles. The member enterprises of the Association have pledged to comply with these regulations in their own house sales and house deliveries.

2 THE OFFER

2.1

A written offer of the seller shall be binding for one month as of the date of the offer unless otherwise specified in the offer.

2.2

The dimensions and weights provided in offer documents shall be approximate.

3 THE CONTRACT

3.1

A binding contract shall arise when the buyer and seller have signed a purchase agreement or when an order has been confirmed in writing.

3.2

The terms and conditions of the contract shall be recorded in the purchase agreement or order confirmation, and in the annexes thereto.

3.3

Both parties shall approve any terms and conditions amending or supplementing the contract. The said terms and conditions and the details provided by both parties should be confirmed in writing to facilitate proof.

4 ORDER OF PRECEDENCE OF CONTRACT DOCUMENTS

4.1

The contract documents shall be complementary. The contract documents shall prevail in the following order of priority in the event of any conflict between them:

- the purchase agreement
- the order confirmation
- the annexes to the purchase agreement and order confirmation
- the order
- the offer
- the call for tenders
- these general terms and conditions

5 THE PRICE

5.1

The price shall be fixed and based on the agreed scope and time of delivery. It shall include the indirect taxes and charges that were in force at the time when the contract arose. The contract may nevertheless separately specify whether statutory amendments and official decisions that are already known at the time of concluding the contract have been taken into account in the purchase price. An agreed fixed price may be amended after concluding the contract, based on the criteria set out in clauses 5.3, 5.4 and 5.8.

5.2

The seller shall at least itemise the share of element installation work in the purchase price. This itemisation shall be submitted to the buyer within 4 weeks of concluding a binding contract.

5.3

If any amendment to the delivery or construction plans is agreed after signing the purchase agreement and the amendment causes a change in costs, then the seller shall be entitled to compensation from the buyer for any increased costs, and shall be required to issue a credit corresponding to any reduced costs.

5.4

The seller shall be entitled to increase the agreed price unilaterally if:

- the increase is due to a statutory amendment or official decision that the seller could not reasonably have been expected to take into account when concluding the contract,
- the increase is due to an impediment encountered in construction, element installation or some other service provided by the seller that is beyond the seller's control, that the seller could not reasonably have been expected to take into account when concluding the contract, and whose consequences the seller could not reasonably have avoided or overcome,
- the seller's performance has been delayed for reasons attributable to the buyer, and the price increase is due to a consequent increase in the seller's costs,
- the increase is due to inaccuracy of information that was provided by the buyer, or that the buyer was responsible for obtaining.

5.5

The price increase clause may not be invoked in the cases referred to in the first three paragraphs of clause 5.4 after the seller has discharged the obligation concerned.

5.6

The buyer shall be entitled to rescind the contract if the price increase in the cases referred to in the first two paragraphs of clause 5.4 is greater than 5 per cent of the purchase price, unless the increase is due to a broadening of the tax base whereby a previously tax-exempt transaction becomes liable for tax. The buyer shall be entitled to rescind the contract with respect to installation if the increase for installing delivered elements would

exceed 15 per cent of its contracted price.

5.7

The buyer shall be notified of any price increase and its grounds without delay.

5.8

The buyer shall be entitled to a corresponding price reduction if the taxes, parafiscal charges or seller's costs included in the purchase price decrease after concluding the contract due to a statutory amendment or official decision, unless the seller shows that it took the said decrease into account in the originally agreed purchase price.

6 PAYMENT OF THE SALE PRICE

6.1

The sale price shall be paid against an invoice in accordance with the purchase agreement or order confirmation, and with the payment schedule agreed therein.

6.2

The buyer shall remit an advance payment (down payment) of 3 per cent of the purchase price to the seller.

6.3

A purchase price remitted via a bank or post office shall be deemed paid on the day when the bank or post office accepted the buyer's payment order.

6.4

A delay in delivery due to reasons attributable to the buyer shall not generally affect the agreed payment schedule.

6.5

The seller shall be entitled to delay penalty interest reckoned

from the due date in accordance with the Interest Act if the buyer delays payment of the purchase price in cases where the order is not cancelled or the contract is not rescinded.

6.6

The seller shall be entitled to withhold any outstanding delivery until payment has been remitted if the buyer fails to pay the purchase price in accordance with the payment schedule. The buyer shall be notified immediately of any interruption of delivery. The seller shall nevertheless take the necessary measures to counteract any health hazard or substantial risk to property that an interruption of delivery would cause. The seller shall be entitled to compensation for the additional costs incurred in interrupting delivery.

6.7

The buyer shall be entitled to withhold payment of the purchase price without incurring liability for a delay penalty in the circumstances referred to in clauses 11.2 and 16.7.

6.8

Payment of the purchase price shall not imply final approval of the seller's performance.

7 SECURITIES

7.1

The seller shall lodge a security deposit with the buyer securing the down payment and any other prepayment remitted by the buyer, which shall remain valid until the value of the seller's performance corresponds to not less than the amount of the said down payment or other prepayment.

7.2

The seller may require an acceptable security from the buyer in order to secure its receivable.

8 DOCUMENTS

8.1

All documents released by the seller, such as drawings, installation and work instructions, shall remain the property of the seller and are intended for use by the buyer in the construction project to be the subject of a contract. The buyer may neither use, reproduce, duplicate or release these documents, nor disclose information from them to any third party without the seller's consent.

8.2

Each party shall be liable for the accuracy of any plans and documents that it provides, and the information on which they are based. The seller may nevertheless not rely on any errors in the buyer's plans and documents that the seller should have noticed as an industry professional.

9 TRANSPORTING, UNLOADING AND STORING OF GOODS

9.1

The seller shall be responsible for transport, and for the costs of transport and storage and other costs arising from the goods prior to delivery unless otherwise agreed. This shall nevertheless not apply to costs incurred due to any delay in delivery for reasons attributable to the buyer. The terms and conditions governing delivery times are set out in clause 12.

9.2

The seller shall furnish the buyer with the necessary

written instructions concerning transport, construction site roads, unloading points, and storage and protection of goods. The buyer shall be required to comply with the instructions issued.

10 DUTY OF THE PARTIES TO ASSIST

10.1

The drawings, work descriptions and written instructions supplied to the buyer after concluding the contract shall specify the delivery. The buyer shall study them at the earliest opportunity after receiving them, and shall submit any observations to the seller without delay.

10.2

The buyer shall be liable for obtaining the building permit and other necessary permits. The buyer shall be required to notify the seller of any changes to the contract caused by the building permit, or to furnish the seller with a copy of the building permit.

10.3

The seller shall issue instructions to the buyer concerning construction site arrangements before commencing installation work. The buyer shall be required to arrange the construction site in accordance with the seller's instructions before the agreed time of installation. The buyer shall be liable for the consequences and costs arising from any failure to do so.

10.4

The drawings, other documents and installation and working instructions supplied by the seller are intended for the use of construction industry professionals. A buyer

discharging installation or other work assigned thereto under the contract shall be liable for careful compliance with the drawings and other documents supplied by the seller, and with the installation and work instructions issued by the seller, and for otherwise ensuring that work on the construction site is done in accordance with good construction practice.

10.5

The parties shall also be required to assist in limiting harm and additional costs as far as possible, and to consult one another on related measures.

11 DELAYS IN DELIVERY

11.1

The other party shall be notified without delay if the seller is wholly or in any respect unable to discharge its performance at the agreed time, if the buyer cannot take delivery of the seller's performance at the agreed time, or if a delay seems likely. The reason for the delay and the new delivery date shall always be notified in writing.

11.2

If, due to a delay on the part of the seller, goods have not been delivered or installation work has not been performed by the time at which all or part of the price falls due for payment under the contract, then the buyer shall be entitled to withhold payment until the seller's corresponding performance has been discharged. The buyer may nevertheless not withhold payment to an extent that manifestly exceeds the claims to which the buyer is entitled due to a delay if the performance has been delayed only in part. Even after performance, the buyer shall be entitled to withhold payment of

the portion of the price that is necessary to secure a claim for compensation due to delay.

11.3

The buyer shall always be entitled to standard compensation if the seller's performance is delayed, unless the delay is due to *force majeure* within the meaning of clause 11.7. The standard compensation shall be 0.5 per cent of the portion of the price corresponding to the delayed performance for each week of delay or part thereof in the first month of delay, and 1 per cent of the corresponding portion of the price for each subsequent week of delay or part thereof.

11.4

If a delay in delivering or installing goods delays the installation of other goods already delivered, then the standard compensation shall be reckoned on a portion of the price that includes the portion of the goods in question and their installation, provided that the said installation is an obligation of the seller.

11.5

The maximum standard compensation shall be 10 per cent of the portion of the price referred to in clauses 11.3 and 11.4.

11.6

Notwithstanding the standard remuneration, the buyer may nevertheless claim compensation corresponding to the actual damage that the buyer demonstrates in accordance with section 11 of chapter 9 of the Consumer Protection Act.

11.7

The seller shall nevertheless not be required to pay standard compensation or other

damages if the seller shows that the delay in performance is due to an impediment beyond the seller's control that the seller could not reasonably have been required to take into account at the time of concluding the contract, and whose consequences the seller could not reasonably have avoided or overcome. The seller may not rely on such *force majeure* as grounds for discharge from liability if the seller fails to notify the buyer of its onset in writing.

11.8

The buyer may rescind the contract due to any delay on the part of the seller that causes material inconvenience to the buyer. The buyer may not rescind a contract relating to elements that are to be manufactured or purchased specifically for the buyer in accordance with the buyer's instructions or wishes and cannot be otherwise used by the seller without significant loss unless the delay has continued for longer than 60 days. The buyer may nevertheless rescind a contract before the delay has continued for longer than 60 days if the buyer would be placed in an unreasonable situation due to the need to remain bound by the contract. The buyer shall be entitled to rescind the contract with respect to delayed goods that can be replaced without difficulty by equivalent goods procured elsewhere unless the goods have been delivered before a reasonable additional deadline imposed by the buyer. The buyer may rescind a contract in respect of a delay in installation work under the conditions laid down in section 9 of chapter 8 of the Consumer Protection Act.

11.9

If the buyer rescinds a contract in whole or in part and a performance already completed by the seller cannot be returned in a materially unchanged condition or without causing material inconvenience to the buyer, then the seller shall be entitled to compensation for its performance equalling the value of the said performance to the buyer.

11.10

A buyer who rescinds a contract in whole or in part to the extent that the contract has not been discharged shall be entitled to obtain from the seller any drawings and other specific instructions or information related to the building that are necessary for performing the remaining work.

12 RISK LIABILITY AND TRANSFER OF TITLE

12.1

The seller shall be liable for the risk of destruction, loss or damage of the item sold due to all reasons beyond the buyer's control until the seller's performance has been surrendered to the buyer.

12.2

Where the seller is responsible for transport, delivery of the goods shall have occurred when the goods have been unloaded from the transport vehicle at the construction site or other agreed place, unless some other time of delivery has been agreed (e.g. as part of the delivery clauses) due to the special nature of the delivery (weight, shape, manner of installation, etc.) or for some other pressing reasons.

12.3

If the buyer is liable for transporting the goods under a procurement contract, then risk liability for the goods shall pass to the buyer when the goods have been loaded on the buyer's behalf onto a transport vehicle procured by the buyer.

12.4

The risk of installation work shall pass to the buyer when the installation work has been completed.

12.5

Any destruction, loss or damage occasioned to the item sold after the transfer for reasons that are independent of the seller shall be the liability of the buyer, who shall accordingly pay the purchase price regardless of the damage. It shall also be the business of the buyer to arrange protection and insurance of the goods as of the time when risk liability has passed thereto on transfer.

12.6

Title to goods that have not yet been secured or installed on the construction site shall pass to the buyer only after the price has been paid in full, including any interest. The seller may prohibit securing or installation of the goods on the construction site if there are reasonable grounds for doubting the solvency of the buyer.

13 DELIVERY CONDITION OF GOODS AND INSTALLATION WORK

13.1

The goods and installation work shall comply in all respects with the contract and with the information provided by the seller, and shall satisfy the requirements of statutes and official regulations that are

current in Finland at the time of delivery, for example with regard to construction, fittings, and occupational and fire safety. They shall also correspond in other respects to the reasonable expectations of a buyer. Goods must be properly packaged and protected.

13.2

The seller shall furnish the buyer with the necessary instructions for storing, installing, using or servicing the goods, and with any other necessary details related to the delivery that a buyer may reasonably expect to receive.

13.3

If subsequent finishing, adjustment or replacement is typical of the goods in order to bring them into full working order, then no shortcoming detected prior to these measures shall constitute a defect in the goods.

14 INSPECTION OF A DELIVERY

14.1

A delivery shall be accompanied by a bill of lading or other transport document on which the buyer shall acknowledge receipt of the goods. If it is observed that goods are missing or damaged without opening the packaging, then the buyer shall place an entry to this effect on the transport document.

14.2

The buyer shall check the goods against the dispatch list after delivery. The buyer shall perform a particular inspection of any goods with damaged packaging. The buyer shall not be required to open other packages in order to inspect the goods. Any failure of the buyer

to perform an inspection shall jeopardise the buyer's rights and opportunity to rectify defects and shortcomings.

14.3

The buyer shall report any defects or shortcomings in a delivery in accordance with clause 15.

14.4

If a delivery includes installation, then a separate reception inspection shall also be arranged between the buyer and the seller. This shall take place at a time notified by the seller unless the buyer can show that the said time causes unreasonable inconvenience to the buyer.

15 NOTICE OF DEFECT

15.1

The buyer shall notify the seller or the seller's representative of any defect or shortcoming within a reasonable time, which shall normally be within 14 days of the time when the buyer noticed or should have noticed the defect or shortcoming.

15.2

A buyer seeking to invoke the fault liability of another trader under clause 16.12 shall notify the said trader of the defect or shortcoming within a reasonable time after the buyer notices or should have noticed the fault and had access to the necessary information concerning the trader. There shall nevertheless be no requirement for separate notification if the trader has otherwise become aware of the notice of defect.

15.3

The buyer may nevertheless invoke a defect or shortcoming notwithstanding clauses 15.1 and 15.2 if:

- the seller or other trader to whom the claim is addressed has acted with gross negligence, dishonourably or in an unworthy manner,
- the fault is based on a failure of the seller's performance to meet requirements imposed thereupon under the Product Safety Act, or under other provisions or regulations issued to protect health or property,
- the error is based on the fact that the seller's performance is otherwise hazardous to health or property.

16 LIABILITY FOR DEFECTS AND SHORTCOMINGS IN DELIVERY

16.1

The Seller shall be liable for any defect or shortcoming in its performance at the time of delivery, even if this only becomes evident at a later time. A defect shall be presumed to have already existed at the time of transferring risk liability (clause 12 of the terms and conditions) to the buyer if it becomes evident within six months of the said transfer. The seller shall be discharged from this presumption by showing that the fault only arose after risk liability passed to the buyer, or in the event that the presumption is contrary to the nature of the fault or the goods.

16.2

The seller shall be required, at its own expense, to rectify a fault in the goods or in installation work that it has performed, or to replace the faulty goods, within a reasonable time after the fault became known to the seller and the seller was given an

opportunity to rectify the fault or replace the goods.

16.3

The parties may agree orally on urgent or minor rectifications.

16.4

Replaced goods and materials shall belong to the seller.

16.5

The seller shall not be liable for damage due to the following causes when the buyer discharges an installation or any other work assigned thereto under the contract:

- work performed incorrectly or in a manner contrary to the instructions,
- any modification made without the permission or assistance of the seller,
- any continuation of work notwithstanding a fault observed in the goods if this materially hampers rectification of the fault,
- normal wear and tear or deterioration caused by use of the goods and materials.

16.6

The party that observes any damage shall immediately take measures deemed reasonable to limit the said damage. A party neglecting this requirement may bear a corresponding portion of the damage. The reasonable costs incurred in limiting damage shall always be reimbursed.

16.7

The fault shall entitle the buyer to withhold payment of the purchase price. The buyer may nevertheless not withhold any sum that manifestly exceeds the legitimate claims of the buyer based on the fault.

16.8

The buyer may claim a price reduction corresponding to the

fault if rectification of the fault is out of the question, or if the fault is not rectified within a reasonable time after the buyer has reported it and the seller has had a due opportunity to inspect the site.

16.9

The buyer may rescind the contract if the error is essential. Insofar as a performance already completed by the seller cannot be returned without material inconvenience, the buyer shall be entitled to rescind the contract only if no other penalty may be considered reasonable from the point of view of the buyer.

16.10

The provisions of clauses 11.9 and 11.10 shall also apply if the buyer rescinds the contract.

16.11

The buyer shall also be entitled to compensation for any damage suffered by the buyer due to the fault.

16.12

The buyer shall also be entitled to address claims arising from a fault to a trader who, at an earlier stage of sales, transferred the goods or materials used by the seller for resale, or whom the seller has used as an aide to discharging the contract, subject to the restrictions set out in subsection 2 of section 31 of chapter 5, and subsection 2 of section 34 and subsection 2 of section 35 of chapter 8 of the Consumer Protection Act.

17 CANCELLATION OF ORDER

17.1

The seller shall be entitled to damages determined in accordance with section 30 of chapter 9 and section 30 of

chapter 8 of the Consumer Protection Act if the buyer cancels an order prior to delivery of the goods or completion of the installation and other work. The compensation shall correspond to the down payment, i.e. 3 per cent of the purchase price (standard compensation) unless some other extent of damage is separately proven. If a cancellation only concerns installation and other possible work related to the delivery, then the standard compensation shall nevertheless be reckoned on the basis of the price of the cancelled installation and other work. The seller shall be entitled to payment for work already done. The standard compensation may be adjusted if either party separately shows that the true damage caused by a cancellation materially differs from that standard.

17.2
The Seller shall nevertheless not be entitled to compensation for damage if an order has been cancelled due to a statutory provision, interruption of public transport or payment traffic, or any other similar impediment that the buyer cannot reasonably avoid or overcome.

17.3
The buyer shall be entitled to require equitable adjustment of the compensation payable to the seller if the buyer is faced with long-term unemployment, a long-term and serious illness, dissolution of marriage or family bereavement, or if some other corresponding reason materially affects the buyer's ability to remain a party to the contract and the buyer accordingly cancels goods consignments that have not been released.

18 OTHER BREACHES OF CONTRACT BY THE BUYER

18.1
The seller may rescind the contract due to late payment by the buyer if the breach of contract is material. The seller may not rescind the contract due to late payment by the buyer after the delayed payment has been remitted.

18.2
If the buyer has taken possession of goods, then the seller may only rescind the contract with respect thereto if the goods have not been secured or installed on the construction site, or if the buyer rejects the goods. The seller may rescind the contract in respect of work only to the extent that the work has not yet been completed.

18.3
If a transfer of goods is delayed due to a reason attributable to the buyer, then the seller shall be entitled to compensation from the buyer for transportation, storage or protection costs and insurance expenses that have become necessary due to the delay.

18.4
If the duties of the seller include an installation that is delayed for reasons attributable to the buyer, then the seller shall be entitled to reasonable compensation for the damage caused to the seller due to an inability to provide alternative work to the workforce that was set aside for the installation.

18.5
The seller shall be entitled to rescind the contract if a goods delivery is unduly delayed for some reason attributable to the buyer. The seller shall be correspondingly entitled to

rescind the contract in respect of any installation duties of the seller.

18.6
The seller shall be entitled to compensation for damage determined in the same way as in the circumstances referred to in clause 17 when the seller rescinds the contract on the grounds set out in clauses 18.1 and 18.5.

19 ASSIGNMENT OF THE CONTRACT

19.1
Neither party shall be entitled to assign the contract to a third party without the consent of the other party.

20 DISPUTES

20.1
If any disputes cannot be settled through negotiation between the parties, which may involve such measures as consulting specialists, then the buyer may refer the matter to the Consumer Complaints Board.

20.2
If disputes are submitted for settlement by a court of law, then the action shall be filed at the general court of first instance with jurisdiction in the buyer's place of residence unless the buyer chooses to file the action at the general court of first instance with jurisdiction where the seller is domiciled.



Pientaloteollisuus PTT ry
PL 381, Eteläranta 10
00131 Helsinki
www.pientaloteollisuus.fi