

JAPAN-TIMBER 1998, GENERAL CONDITIONS

Adopted by The Finnish Forest Industries Federation,
The Norwegian Sawmill Industries Association
and The Swedish Wood Exporters' Association.

- § 1 Measure, Bracking and Seasoning** Lengths, widths and thicknesses are in metric units.
The goods are to be graded in accordance with the principles of Nordic Timber grading rules with consideration to amendments in the specification, if any, and properly seasoned for a voyage to Japan.
- § 2 Price** The prices for sawn wood goods apply to the sawn measure per cubic metre and for planed wood goods to the planed measure per cubic metre.
- § 3 Payment** In case payment is to be made by letter of Credit (hereafter, L/C) and the L/C does not comply with all the conditions in the signed contract and/or the time periods stipulated therein and the Buyer does not within 7 calendar days from message received from the Seller instruct his bank to make the relevant amendments, the Seller is entitled to cancel the contract and to claim damages.
In case the Buyer has not paid within 28 calendar days after the stipulated time of payment, the Seller is entitled to cancel any further deliveries under the same contract.
- § 4 Chartering** The containers shall in due order be obtained by the Seller (in case of a FAS-delivery by the Buyer).
The Buyer undertakes that full loading orders and, if applicable, charter party shall be in the Seller's hands not later than 14 calendar days prior to shipment. The Seller is not responsible for a loss due to delays under shipment which are beyond the Seller's control except for the costs to extend the L/C.
- § 5 Margins** a) The Seller has the right to vary 10 per cent more or less on any or every item, always provided that the total quantity is not varied except under the provisions under b) and c). This right to vary may not be used so that the invoice amount is outside the limits given in the L/C.
b) The Seller has the right to regard the contract as fully delivered if, after the last container has been delivered, there remains less than 21m³.
c) The Seller has the right to deliver such a margin that is needed for a full container load if, after the last container has been delivered, there remains more than 21m³.
In case both number of containers and quantity in cubic metres has been given the latter shall apply.
- § 6 Force majeure** In case the manufacture and/or shipment of any of the goods specified in the contract should be delayed or hindered by reason of fire or through an accident to the sawmills, including structures essential for production, timber yards and loading berths, or through drought, ice, flood, strike or lockout, mobilisation, war or through any other cause beyond the Seller's control, the Seller, provided he within 48 hours gives notice to the Buyer by facsimile of the delay or hindrance, shall not be responsible for any damages resulting to the Buyer therefrom. In such event only, the Seller have the right to complete the contract within 6 weeks from the ready date.
Should the Seller, however, be unable to deliver within such extended time he shall give prompt notice to the Buyer by facsimile and the contract will be cancelled for all unshipped goods.
The party who who is responsible for paying the freight and other costs of transporting the goods to the named port of destination has the right to cancel the contract if the freight rates due to war should rise by more than 10% in comparison with the freight charges at the time for signing the contract, provided that the other party does not declare himself willing to pay the amount exceeding this 10% plus any extra insurance costs that may occur. Such declaration must be made by facsimile within three working days on receipt of the former party's message concerning the said raising of charges.
- § 7 Overlying goods (FAS)** Should any of the goods not be removed by the drawing date i.e. four weeks (or other period given in the contract) after the ready date mentioned in the contract, the Seller has the choice of cancelling the contract at the above described drawing date or demanding that the Buyer pays cash in the Seller's country within seven days from the said drawing date against an approximate invoice. All payments are to be made to a bank account named by Sellers through SWIFT-transfer.
The Buyer shall be entitled in exchange for such payment to receive a guarantee by approved Bankers in the country of shipment that if the goods or any portion thereof are not delivered free alongside or at the named place or point if applied for by 1st August of the following year the contract value of any quantity unshipped will be refunded to the Buyer. The cost of the said guarantee shall be borne by the Buyer. Fire insurance on any such goods is to be covered by the Seller for the account of and at the expense of the Buyer.
When delivering overlying goods the Seller shall not be responsible for any deterioration of the goods caused by postponement of delivery unless such deterioration exceeds what would be normal deterioration between the drawing date and the date of delivery of goods protected as customary. (see § 9)
If the goods or part thereof are not removed before the drawing date, rent is to be paid from the said date at the rate of 1% of the contract value of the goods per month or part of a month.
- § 8 Delay** In case of the Seller's delay in dispatching the goods, the Buyer has the option of cancelling the contract by facsimile to the Seller, however, the cancellation will take effect only 28 calendar days after receipt of the Buyer's notice and during this period the Seller has the right to dispatch the goods.

§ 9 Claims

If any dispute arises regarding goods dispatched in conformity with the description of quality and specification to this contract, then the Buyer has no right to reject the goods or to refuse to pay in accordance with the stipulations of the contract.

No claims for quality and/or conditions will be recognised by the Seller upon any shipped goods under the contract unless:
1) the Buyer has given the Seller a written message within 15 calendar days from the customs clearance in the port of discharge and

2) the Buyer has given the Seller reasonable particulars within 30 calendar days from the customs clearance in the port of discharge.

Reasonable particulars shall mean a statement as to whether the claim is for quality and/ or condition together with a statement of the sizes to which the complaint applies and of percentages and of the amount claimed.

It is upon the Buyer's responsibility to keep the goods in safe custody, i.e. goods delivered shipping dry are to be stored in a dry place and specially dried goods to be stored in a place where the Buyer can guarantee unaltered moisture content.

No claim for quality shall be recognized on any item or part item shipped which has been broken into, but otherwise the Buyer shall be at liberty to deal with any item or part item on which there is no such claim without prejudice to his right to claim on any intact item or part item. An item or part item shall be considered to be intact if it can be produced in its entirety as delivered.

An item shall mean all goods of the same dimension, quality and description. A part item is an item divided on different Bills of Lading. In case of a claim for quality on any one item or part item on which the Buyer has made a complaint, the said goods shall be available in total to the person (s) who will inspect the goods.

On any claim for condition including discoloration, the Buyer is at liberty to deal with any portion of the goods on which there is no claim, the claim for condition including discoloration being confined to quantities which Buyers can produce for inspection

§ 10 Arbitration

Any dispute whatsoever arising out of this contract which cannot be settled amicably shall be referred to arbitration in accordance with the law of the Seller's country.

The place of arbitration for disputes and/or claim regarding quality and/or condition of shipped goods shall be Japan and regarding all other disputes, Sweden if the Seller is Swedish and Finland if the Seller is Finnish.

The language to be used in the arbitral proceedings shall be English.

§ 11 Applicable law This contract shall be governed by the law of the Seller's country.

§ 12 Retention of title

The Seller retains the ownership of the goods. The ownership shall pass to the Buyer when the Buyer has paid the sales price and other expenses to be borne by the Buyer subject to the contract.

The Buyer shall keep the goods in safe custody, as defined in § 10, and is not entitled to resell the same until full payment has been made.

§ 13 Product liability

LIABILITY FOR DAMAGE CAUSED BY THE GOODS AFTER DELIVERY.

The Buyer shall indemnify and hold the Seller harmless for any claims or damages against the Seller in relation to the goods after delivery. The Seller shall under no circumstances be liable for loss of production, loss of profit or any other consequential economic loss of the Buyer or any third party.

§ 14 Written message

A written message refers to a document signed by one party delivered or sent to the other party by hand, courier, mail or facsimile but not through other electronic transmissions.

This contract may be available in different languages.

In case of discrepancy the English version shall apply.

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