

GENERAL STANDARD TERMS AND CONDITIONS FOR THE FURNITURE TRADE

These General Standard Terms and Conditions are an essential and integral part of every offer and every agreement made with us (M. Westermann & Co. GmbH, represented by the managing directors Egbert Neuhaus and Marcus Westermann, Bahnhofstr. 205, 59759 Arnsberg; hereinafter also referred to as "Seller"). Specific terms and conditions which apply only in business to business transactions are identified as such. Any general standard terms and conditions of purchase of buyer that contradict these General Standard Terms and Conditions are not binding upon us unless they have been accepted by us in advance in writing. Verbal collateral agreements, additions or amendments to these General Standard Terms and Conditions are not valid unless confirmed by us in writing. Our offers are without obligation.

In business to business transactions, our Terms and Conditions of Sale apply including in those cases where we make an unconditional delivery to buyer in the knowledge of the existence of buyer's conflicting terms or terms that differ from our own Terms and Conditions of Sale. All understandings entered into between us and buyer for the purpose of executing this contract must be laid down in writing in this contract.

Our Terms and Conditions of Sale apply to entrepreneurs, legal entities under public law or special funds under public law within the meaning of section 310(1) of the German Civil Code (BGB) and shall also govern all and any future transactions with the buyer as far as they are legal transactions of a related nature.

Section 1 – Definitions

Buyer is a consumer within the meaning of the law, if and insofar as buyer concludes the legal transaction for purposes predominantly outside buyer's trade or activities as an independent contractor. On the other side, an 'entrepreneur' is deemed to be any individual or legal entity or a partnership having legal personality acting in the exercise of its commercial or self-employed professional activity when concluding a transaction.

Section 2 – Conclusion of contract

- (1) In the case of goods not in stock Buyer shall be bound by the purchase order (contractual offer) for three weeks.
- (2) On expiry of that time the contract shall be formed unless Seller has previously declined the contractual offer in writing.
- (3) Section 2 notwithstanding, the contract shall be formed before the time of three weeks has elapsed if
 - the contract has been signed by both parties, or
 - Seller has accepted the purchase order (contractual offer) in writing, or
 - Seller accepts advance payments of the purchase price.

(4) Notwithstanding the above, if buyer places its purchase order online through the URL <http://www.wesco-aluments.de>, <http://www.wesco.de>, or other websites operated by Seller (hereinafter referred to as "Website"), a contract is deemed to be concluded as follows:

a) Purchase orders placed at the online shop

- The products presented by Seller on the Website and/or configured by buyer itself do not constitute a binding offer of contract.
- Buyer can select products from Seller's range and place these in a so-called shopping basket using the button "Add to basket". By clicking on the button "Buy", buyer makes a binding offer to purchase the goods in the shopping basket. Before finally placing the order, buyer can change and view the data in the shopping basket at any time. However, the offer to purchase can only be submitted and transmitted if buyer has accepted these General Terms and Conditions by clicking on the button "Accept Terms and Conditions", thereby making them an integral part of the offer to purchase.
- Upon payment, Seller will send buyer an automatic acknowledgement of receipt by e-mail which once again lists the items of the purchase order placed by buyer. Buyer can print out this acknowledgement of receipt using the "Print" function. The automatic acknowledgement of receipt merely documents that the purchase order placed by buyer has been received by Seller and does not constitute any acceptance of the offer to purchase. A binding contract is only concluded when Seller sends a declaration of acceptance in a separate e-mail within three (3) working days of receipt of the purchase order. If the desired product is no longer in stock, Seller will decline buyer's offer to purchase within three (3) working days of receipt of the purchase order. In this case, no binding contract has been concluded.

b) Purchase orders made through the Configurator

- Where buyer has the option to configure products itself and to have such products manufactured on the basis of buyer's specifications, buyer can send a non-binding inquiry to Seller by clicking on the Send Inquiry button. Inquiries made through the Configurator are deemed made to order items under Section 21 of these Terms and Conditions.
- Having received such an inquiry, Seller will then send buyer an offer by e-mail for the products configured. That offer contains a reference to these Terms and Conditions which through the reference become an integral part of the offer. Buyer can accept the offer, also via e-mail, within a period of 14 days. Having made the contract, buyer will receive a confirmation of order and a down payment invoice.

c) Ordering of configured products by entrepreneurs and/or dealers

- If the buyer of configured products is a registered dealer, the dealer can log in using its user name and password. This gives the dealer access to the dealer view of the Configurator. Among other things, the dealer is shown the applicable prices directly in the Configurator and not only upon request.

d) Ordering of non-configured products by entrepreneurs and/or dealers

- Insofar as the purchase order constitutes an offer within the meaning of section 145 of the BGB, we are entitled to accept such offer within a period of 2 weeks.
- We retain the title and copyright to all documents made available to buyer in connection with the purchase order, such as illustrations, drawings, calculations and other documents. This also includes any written materials that are identified as “confidential”. Buyer shall not be entitled to disclose such documents to third parties except with our express written consent.

Section 2 – Prices

- (1) The prices are final prices including value-added tax.
- (2) Special works agreed in addition and not included in the purchase price, such as decorating works, will be charged separately and will be due for payment upon delivery and/or acceptance. Among other things, this includes any filler panel work requested by buyer.

Section 4 – Prices and terms of payment in business to business transactions

- (1) Unless otherwise provided in the order confirmation, all our prices are “ex works” and do not include packaging, which is charged separately.
- (2) Value-added tax at the legal rate is not included in our prices; it is shown as a separate line item on the invoice at the effective rate on the date of invoicing. Any discount may be deducted only if a special written agreement has been made.
- (3) Unless otherwise provided in the order confirmation, the purchase price is due and payable net (without deduction) within 30 days from the date of the invoice. The statutory provisions concerning consequences of default in payment shall apply.
- (4) Buyer is not entitled to set off any amount unless buyer’s counterclaims have been finally determined, are undisputed, or have been acknowledged by us. Moreover, buyer has a right of retention insofar as buyer’s counterclaim is based on the same contract.

Section 5 – Reservation of changes

- (1) Series production furniture is sold as per sample or illustration. Items made to order in accordance with Section 21 are sold according to the relevant contractual agreement.
- (2) There is no entitlement to delivery of display pieces unless otherwise agreed at conclusion of contract.
- (3) Quality claims in respect of the goods ordered may be made only to the extent that they can be made equitably or in accordance with ordinary trade usage in respect of goods in the same price range as the goods ordered.
- (4) Wood surfaces are subject to colour and grain variations consistent with normal trade practice and acceptable to buyer. Buyer acknowledges and agrees that such surfaces are natural products and as such are subject to natural variations in colour and surface structure which do not constitute a defect of the goods.
- (5) Leather and textiles (e.g. upholstery fabrics and decorative fabrics) are also subject to variations in accordance with ordinary trade usage and acceptable to the customer with regard to minor variations in the finish compared with leather and fabric samples, in particular in the

shade. Buyer therefore acknowledges and agrees that such products are natural products and as such are subject to natural variations in colour and surface structure which do not constitute a defect of the goods.

- (6) Measurements are also subject to deviations consistent with normal trade practice and acceptable to buyer.

Section 6 – Assembly

- (1) If Seller has concerns about the suitability of the walls for installation of wall-mounted items of furniture, Seller shall inform buyer before installation.
- (2) Seller's staff are not authorised to carry out work beyond the scope of Seller's obligations to perform under the contract. If such work is nevertheless carried out by Seller's staff at buyer's request, this shall not affect the contractual relationship between Seller and buyer.

Section 7 – Delivery and shipping costs

- (1) In case of delivery of goods ordered through Seller's Website, buyer shall bear the shipping costs specified in the offer and/or in the course of the purchase order procedure.
- (2) Without prejudice to the generality of the foregoing, the following provisions apply to delivery of goods ordered in any of Seller's physical stores:
If delivery/dispatch of the goods by Seller or by the appointed carrier of Seller has been agreed, such delivery/dispatch, including any necessary packaging, shall be effected to behind buyer's first lockable door. Lorry access and unloading of lorry must be guaranteed by buyer. If buyer requests special packing or a special shipping method, the extra expenses arising will be invoiced separately. As a rule, deliveries within a distance of up to 50 km are performed by Seller itself; a lump sum fee of €30 or €70 is agreed for this purpose when making the contract. In case of deliveries covering a distance of more than 50 km an external carrier is engaged at buyer's expense.

Section 8 – Delivery period

- (1) The delivery period is agreed separately between the parties in the purchase order and/or laid down in the relevant offer. If a down payment has been agreed, such period begins at the earliest once Seller has received the down payment.
- (2) If Seller is unable to meet the agreed delivery period, buyer shall grant Seller an appropriate extension of the delivery period, beginning on the date of receipt of buyer's written default notice or, in the event of a specific date set for delivery, upon expiry of that date. Buyer is entitled to cancel the contract, if Seller has not delivered by expiry of the extended delivery period.
- (3) The delivery period is extended accordingly in case of disruptions to Seller's or its suppliers' operations for which Seller is not responsible, including but not limited to strikes and lockouts and instances of force majeure based on an unforeseeable event for which the affected party is not responsible. Buyer shall be entitled to cancel the contract only if buyer in such cases sends a written delivery reminder after expiry of the agreed delivery period and delivery then fails take place within an appropriate extension of time to be set from receipt of buyer's written reminder by Seller. In the event of a specific date set for delivery the extension of time

granted commences upon expiry of that date.

- (4) This does not affect the statutory provisions concerning compensation in lieu of performance.

Section 4 – Delivery period in business to business transactions

- (1) The delivery period specified by us begins only once any technical issues have been clarified.
- (2) Furthermore, the fulfilment of our obligation to deliver requires timely and proper performance of all obligations buyer may have. We reserve the defence of non-performance of the contract.
- (3) If buyer defaults on acceptance or through its fault breaches other obligations to co-operate, we are entitled to demand compensation for any damage or loss incurred by us, including for any extra expenses. We reserve the right to assert further claims.
- (4) Provided that the conditions under paragraph (3) herein above are in place, the risk of accidental loss or damage to the purchased goods shall pass to buyer at the time buyer defaults on acceptance or payment.
- (5) We shall be liable in accordance with the legal provisions if the underlying purchase contract constitutes a firm deal within the meaning of section 286(2) no. 4 of the BGB or section 376 of the German Commercial Code (HGB). We shall also be liable in accordance with the legal provisions if the buyer, as a result of a default in delivery for which we are responsible, is entitled to claim that its interest in further performance of the contract has lapsed.
- (6) We shall also be liable in accordance with the legal provisions if the default in delivery is based on intentional or grossly negligent breach of contract for which we are responsible; any fault on the part of our legal representatives or vicarious agents shall be attributable to us. If the default in delivery is based on a grossly negligent breach of contract for which we are responsible, our liability for damages shall be limited to the foreseeable, typically occurring damage.
- (7) We shall also be liable in accordance with the legal provisions to the extent that a default in delivery for which we are responsible has been caused by a culpable breach of a material contractual obligation; however, in such case, our liability for damages shall be limited to the foreseeable, typically occurring damage.
- (8) Notwithstanding the above, in case of default in delivery, we shall be liable for a lump sum compensation in the amount of 0.5% of the delivery value for each complete week of default in delivery, but only to a maximum of 5% of the delivery value; the foregoing shall not apply if it is evident from the respective circumstances that the buyer has not incurred any damage.

Section 10 – Retention of title

- (1) The goods remain Seller's property until full discharge of all obligations arising from this contractual relationship. Buyer shall safeguard Seller's title accordingly even if the goods delivered are not destined directly for buyer but for a third party and buyer shall expressly draw the consignee's attention to such retention of title.
- (2) Any change of location and any intervention by a third party, in particular any attachment, shall be notified to Seller in writing without delay, enclosing the bailiff's record in the case of attachment.
- (3) In the event that buyer fails to meet its obligations Seller shall have the right to cancel the contract and reclaim the goods.

Section 11 – Retention of title in business to business transactions

- (1) We retain title to the goods sold until receipt of all payments from the business relationship with buyer. In the event of breach of contract on the part of buyer, in particular in the event of default in payment, we are entitled to take possession of the goods sold. Our taking possession of the goods sold constitutes cancellation of contract. We are entitled to turn into cash any item of sale that was taken back by us. The proceeds of realization, less appropriate realization expenses, are offset against buyer's liabilities.
- (2) Buyer shall handle the item of sale with due care; more specifically, buyer shall insure the goods purchased against fire and water damage and theft at its own expense, with the insured sum being adequate to cover the replacement value. If necessary, buyer shall carry out all maintenance work and servicing in a timely manner and at buyer's own expense.
- (3) In the event of attachment or other interventions by third parties, buyer shall inform us immediately in writing so that we can bring action in accordance with section 771 of the ZPO (German Code of Civil Proceedings). If such third party is not able to reimburse us for reasonable judicial and extra-judicial costs resulting from an action brought under section 771 of the ZPO, buyer shall be liable for the loss incurred by us.
- (4) Buyer is entitled to resell the purchased goods in the ordinary course of business; provided, however, buyer hereby assigns to us all claims, up to the amount of the total amount of our invoice (including VAT), buyer may have against its customers or third parties which accrue to the buyer from the resale of the goods, regardless of whether such goods have been resold without or after further processing. Buyer retains its right to collect such claims even after the assignment. This does not affect our own right to collect the claims ourselves. We agree that we will not collect such claims provided that the buyer meets its payment obligations on the basis of any consideration collected; that buyer does not default on payment; and that no petition in bankruptcy has been filed against buyer and that buyer does not suspend payment. If any of the above does occur, we are entitled to demand that buyer notifies us of the claims assigned and of the identity of the relevant debtors, that buyer provides us with all details necessary for collection, that buyer hands over the relevant documents and informs the debtors (third parties) of such assignment.
- (5) Any processing or conversion by buyer of the purchased goods shall be deemed made on our behalf. If the purchased goods are processed with other objects not belonging to us, we will acquire joint ownership of the new resulting item in proportion of the value of the goods purchased (total amount of the invoice including VAT) to the value of the added objects at the time of the processing. The item resulting from such processing is subject to the same provisions as the item of sale that has been supplied subject to reservation.
- (6) If the purchased goods are inextricably mixed with other objects not belonging to us, we will acquire joint ownership of the new resulting item in proportion with the value of the purchased goods (total amount of the invoice including VAT) to the value of the mixed objects at the time of the mixing. If mixing occurs in such a way that buyer's item is to be considered the major component, it is agreed that the buyer shall grant us proportional joint property rights. Buyer shall hold the resulting exclusively owned goods or jointly owned goods in custody for us.
- (7) To secure our claims against buyer, buyer shall also assign to us any claims which may arise against a third party as a result of connection of the goods old with any real property.

- (8) At buyer's request we shall release any collateral due to us to the extent that the realisable value of our collateral exceeds the claims to be secured by more than 20%; provided, however, that we are entitled to select the collateral to be released.

Section 12 – Passage of risk to consumers

- (1) In case of delivery and/or dispatch of the goods by Seller or the carrier engaged by Seller as per Section 7 herein above, the risk of having to pay the purchase price despite loss or damage passes to buyer upon delivery of the goods to buyer if buyer is a consumer. In all other cases the risk passes upon transfer of the goods by Seller to the carrier.
- (2) In the case of collection of the goods using buyer's own vehicles or by a carrier engaged by buyer the risk passes to buyer upon handover of the goods at Seller's business premises.

Section 13 – Passage of risk in business to business transactions

- (1) Unless otherwise provided in the order confirmation, delivery shall be "ex works".
- (2) If the goods are shipped to buyer at buyer's request, the risk of accidental loss or damage to the goods shall pass to the buyer upon dispatch and in any event not later than at the time when the goods leave the plant/warehouse. This shall apply regardless of whether the shipment of the goods is effected at the place of performance, and regardless of which party bears the freight charges.

Section 14 – Default in taking delivery

- (1) Seller shall be liable in accordance with the legal provisions in the event of damages arising from default in acceptance.
- (2) If, upon expiry of an appropriate extension of time to be set in writing with the threat of cancelling the contract or demanding compensation in lieu of performance upon expiry without result, buyer remains silent or expressly refuses to pay and/or take delivery without legal grounds, Seller's claim to performance of the contract shall subsist. Instead of demanding performance, Seller can cancel the contract and/or demand compensation in lieu of performance.
- (3) Buyer shall compensate Seller for any damage incurred by Seller as a result of default caused by buyer. This includes without being limited to reasonable and necessary storage and forwarding costs.
- (4) Seller can demand 25% the purchase price without any deductions by way of compensation in lieu of performance in the event of buyer's default under para. 2 hereof if buyer is an entrepreneur or cannot prove that no loss or a smaller loss than that has occurred. Seller is entitled to prove and claim that a higher damage has been incurred.

Section 15 – No right of revocation

- (1) If buyer is a consumer, the statutory right of cancellation does not apply to distance contracts for the delivery of non-prefabricated goods which were made on the basis of an individual selection or decision made by buyer or which are clearly tailored to buyer's requirements.
- (2) If buyer is an entrepreneur, the right of cancellation is expressly excluded.

Section 16 – Cancellation of duty to deliver

- (1) Seller does not need to deliver if the manufacturer has ceased production of the goods ordered or in cases of force majeure insofar as such circumstances arose only after conclusion of contract, were not foreseeable at the time of concluding the contract, and/or Seller is not responsible for the failure to deliver and, furthermore, if Seller can prove that it has endeavoured in vain to obtain goods of the same kind. Seller shall immediately notify buyer of the above-mentioned circumstances and shall reimburse any consideration already paid without undue delay.
- (2) Seller has a right of cancellation if buyer has provided inaccurate information concerning facts material to its creditworthiness that are justifiably likely to jeopardise Seller's claim for performance. The same applies if because of objective insolvency buyer suspends payments or insolvency proceedings are commenced in respect of its assets.

Section 17 – Taking back goods

- (1) In the event of cancellation of contract in accordance with the law and where Seller voluntarily takes back goods delivered Seller is entitled to compensation for expenses, transfer for use and depreciation in accordance with the applicable legal provisions.
 - (2) For depreciation and transfer for use of the goods delivered, in the absence of a consumer credit transaction the following flat rates shall apply:
 - (1) a) For furniture except upholsteries, in the event of cancellation and taking back after delivery:

within the 1st six months	35% of the purchase price with no deductions
within the 2nd six months	45% of the purchase price with no deductions
within the 3rd six months	55% of the purchase price with no deductions
within the 4th six months	65% of the purchase price with no deductions
within the 3rd year	100% of the purchase price with no deductions
within the 4th year	90% of the purchase price with no deductions
within the 5th year	100% of the purchase price with no deductions
within the 6th year	100% of the purchase price with no deductions
 - b) For upholsteries the depreciation in value in the event of cancellation and return after delivery shall be:

within the 1st six months	45% of the purchase price with no deductions
within the 2nd six months	60% of the purchase price with no deductions
within the 3rd six months	75% of the purchase price with no deductions
within the 4th six months	90% of the purchase price with no deductions
within the 3rd year	100% of the purchase price with no deductions
- With respect to our flat-rate claims it shall be left to buyer to prove that Seller has suffered no losses or only a smaller loss.
- (2) The above provisions do not apply to unwinding of the contract as a result of the buyer exercising its rights of cancellation and/or revocation.

Section 18 – Warranty

- (1) The goods offered for sale by Seller are subject to the statutory warranties (cf. sections 434 et

seq. of the German Civil Code [BGB]). The warranty period for goods delivered by Seller is 12 months, if buyer is an entrepreneur.

- (2) The warranty shall not cover damage for which buyer is responsible, for example damage sustained on buyer's premises due to natural wear and tear, damp, high interior temperature, intensive exposure to sunlight or artificial light, other temperature or weather factors or improper treatment.
- (3) Otherwise, the foregoing shall not affect liability for the warranted qualities.

Section 19 – Liability for defects in business to business transactions

- (1) Buyer is entitled to make claims based on defects only if buyer has duly fulfilled its obligation to inspect the goods delivered and to make a complaint in respect of a defect as provided for in section 377 of the German Commercial Code (HGB).
- (2) Insofar as the goods delivered have a defect that existed already at the time of the passing of risk, and provided that a complaint in respect of such defect was made in due time, we shall either remedy the defect or deliver a new item free of defects. In the event of a rectification of defects or a replacement delivery, we shall bear all expenses necessary for such subsequent performance, including, but not limited to, transport and travel costs, labour costs and material costs, but only to the extent that such costs are not increased due to the fact that the purchased goods were moved to a place other than the place of performance.
- (3) If supplementary performance has failed, buyer may, at its option, demand cancellation of the contract or reduction in the purchase price.
- (4) We shall be liable according to the legal provisions if buyer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our legal representatives or vicarious agents. If we are not accused of any intentional or grossly negligent breach of duty, liability for damages shall be limited to the foreseeable, typically occurring damage.
- (5) We shall be liable in accordance with the legal provisions in case of a culpable breach of a material contractual obligation committed by us; however, even in such case, our liability for damages shall be limited to the foreseeable, typically occurring damage.
- (6) A breach of a material contractual obligation shall be any breach relating to an obligation the performance of which buyer has relied upon and indeed was entitled to rely upon.
- (7) To the extent that buyer is entitled to compensation of damages in lieu of performance, our liability, including with regard to paragraph (3) herein above, shall be limited to the foreseeable, typically occurring damage or loss.
- (8) Liability for culpable injury to life, bodily injury or injury to health shall be not be affected by the above provisions; this also applies to mandatory liability under the Product Liability Act (Produkthaftungsgesetz).
- (9) Save as otherwise provided herein above, any further liability is excluded.
- (10) Any claims for defects fall under the statute of limitations after the expiry of 12 months from the passage of risk.
- (11) The limitation period in case of delivery recourse pursuant to sections 478, 479 of the BGB remains unaffected; this limitation period is five (5) years from delivery of the defective item.

Section 20 – Liability in business to business transactions

- (1) Any liability for damages beyond the scope of liability provided for in Section 19 herein above is excluded regardless of the legal nature of the claim asserted. This applies particularly with regard to damage claims arising from a violation of a pre-contractual obligation (culpa in contrahendo) or from any other breach of duty or with regard to tortious claims for property damage pursuant to section 823 of the BGB.
- (2) The limitation under paragraph (1) herein above shall also apply to the extent that buyer, instead of claiming damages in lieu of performance, demands reimbursement of expenditure incurred in vain.
- (3) Where our liability for damages is excluded or limited, such exclusion or limitation of liability applies also to personal liability for damages on the part of our employees, staff members, representatives or agents.

Section 21 – Made to order items

- (1) Goods that are not series-produced and/or not shown in price lists are deemed items made to order. Special colours and materials used at buyer's request are likewise deemed items made to order unless otherwise agreed in writing.
- (2) Seller retains all title to and copyright in illustrations, drawings, sketches, other documents and samples for items made to order; they shall be sent back without delay on request and shall not be passed on to a third party without Seller's consent.
- (3) Buyer shall be liable for ensuring that the use of drawings, sketches, samples and other documents supplied by buyer does not infringe any third-party rights.
- (4) Seller assumes no responsibility for defects in items made to order that are based on buyer's information, instructions or design specifications and design documents.

Section 22 – Final provisions; duty to inform

- (1) Contracts between Seller and buyer are governed by the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on the International Sale of Goods.
- (2) Seller shall keep these General Terms and Conditions and all other provisions of the contract readily available together with the data pertaining to the purchase order placed by buyer during the order process. Buyer can archive this information simply by downloading the General Terms and Conditions and by using the functions of buyer's browser to save the data which is summarised during the order process in the Internet shop.
- (3) The language of the contract is German.
- (4) Note on Online Dispute Resolution in accordance with Article 14 para. 1 of the Regulation on consumer ODR: The European Commission provides a platform for online dispute resolution (ODR) at <https://ec.europa.eu/consumers/odr/>.
- (5) The place of jurisdiction for all disputes arising from any contract between buyer and Seller shall be at the location of Seller's registered office if buyer is a merchant, a legal entity under public law, or a public-law special fund.
- (6) In the event that any of the provisions contained in the contract are legally invalid, the remaining provisions shall remain in full force and effect. The invalid provisions shall be replaced by the relevant legal provisions, to the extent they exist. If this would be unreasonable for either party, the entire contract becomes invalid.

Section 23 – Jurisdiction and place of performance of risk in business to business transactions

- (1) If buyer is a merchant, the place of our registered office shall be the place of jurisdiction; however, we shall be entitled to sue buyer also at the court of buyer's place of residence.
- (2) The law of the Federal Republic of Germany applies; the Convention on Contracts for the International Sale of Goods is excluded.
- (3) Unless otherwise provided in the order confirmation, the place of performance is at our place of business.