

General Terms and Conditions (TAC) for Commercial Activity

1. Scope of Validity

- (1) All deliveries, services and offers of Pallmann GmbH (hereinafter "PALLMANN") shall be made exclusively on the basis of these General Terms and Conditions ("TAC"). They form a component of all the contracts which PALLMANN concludes with its contractual partners (hereinafter "customers") regarding the deliveries or services offered by it. They also apply to all future transactions with the customers, even if they are not agreed upon separately each time.
- (2) These TAC only apply to companies within the meaning of § 14 BGB (Bürgerliches Gesetzbuch [German Civil Code]).
- (3) Providing that there is nothing to the contrary agreed in writing, these TAC apply to all legal transactions exclusively. The customer recognises them by issuing an order or accepting a delivery. Deviating conditions or confirmations to the contrary by the customer which were not expressly recognised in writing by PALLMANN are not binding, even if PALLMANN does not expressly object to them.
- (4) You can view the most up-to-date valid version of the TAC at <http://www.pallmann.net/meta-navigation/AGB>.

2. Consultation

- (1) Consultation by PALLMANN in the form of advice pertaining to products and services extends exclusively to the products and services created by PALLMANN.
- (2) Beyond that, PALLMANN provides consultation to customers only when explicitly requested to do so. Failure to make statements does not constitute consultation.

3. Offer and Conclusion of Contract

- (1) Written offers by PALLMANN are non-binding and without obligation, provided they are not explicitly designated as binding or contain a defined acceptance period. Written offers by PALLMANN therefore are generally considered invitations to bid, and only become binding upon a written confirmation of the same by PALLMANN.
- (2) Statements in prospectuses, catalogues and technical documents are not binding; in particular, they do not release the customer from the need to perform its own inspections.
- (3) Statements by PALLMANN regarding the subject of the delivery or service (e.g. weights, sizes, utility value, capacity, tolerances and technical data), as well as representations of the same (e.g. drawings and illustrations), are only approximations, unless the usability for the contractually prescribed purpose requires an exact compliance. They are not guaranteed quality features, but rather descriptions or designations for the delivery or service. Normal trade variations, and deviations that occur on the basis of legal regulations or represent technical improvements are permissible, provided that they do not impair usability for the contractually prescribed purpose.
- (4) In general, the order placed by the customer represents the offer to conclude the contract. All of the disclosures relevant to the execution of the order must be made in the order. Missing erroneous or incomplete disclosures are deemed explicitly to not having been agreed upon and do not create any obligation of PALLMANN in regard to claims concerning fulfilment, warranty or compensation for damage.
- (5) Orders should be placed in writing; however, they can also be transmitted via telephone or in some other electronic manner, at the customer's own risk.
- (6) PALLMANN will accept the order within 10 working days of receipt of the order by confirmation of the order, provided that another acceptance period is not prescribed.
- (7) When PALLMANN confirms the order, the contract is deemed as having been concluded, even when its content deviates from that of the order, as with the content of the confirmation, provided that the customer does not immediately object to such confirmation of the order.

4. Amendments

- (1) If the customer wishes to make amendments to the subject of the delivery or service after conclusion of the contract, then a separate contractual agreement must be made for this.
- (2) If the customer withdraws an order before the contract is concluded, then PALLMANN, without prejudice to the possibility of making a claim for higher actual damage, shall be entitled to charge 10% of the delivery or service price for the costs arising due to the processing of the order and for the foregone profit. The customer shall reserve the right to prove a lower degree of damage.
- (3) In case of consensual amendments to the contractual subject-matter, the delivery or service terms or dates must be agreed anew.

5. Delivery and Delivery Time

- (1) Deliveries are made "ex-works" according to clause EXW of the INCOTERMS 2010.
- (2) If PALLMANN offers the prospect of times and dates for deliveries and services, then these shall always be considered mere approximations, unless a fixed time or a fixed date is committed to or agreed upon. If shipment was agreed, the delivery times and delivery dates shall refer to the moment of transfer to the forwarder, freight carrier or other third party entrusted with shipping.
- (3) The customer is entitled to withdraw from the contract if PALLMANN is responsible for failure to comply with a fixed delivery date, and a reasonable extension has elapsed without success.
- (4) PALLMANN is entitled to render the agreed delivery or service prior to the agreed time. Partial delivery or performance of services is allowed, and can be billed separately.

6. Default in Acceptance

- (1) If the customer does not accept the goods due to a circumstance for which it is responsible on a permissible/agreed delivery date or upon the expiration of the agreed delivery time, then PALLMANN may charge for every commenced month storage costs of 0.5%, subject to a total not exceeding 5% of the delivery or service price. The contractual parties remain free to prove

higher or lower storage costs. PALLMANN is authorised to determine a suitable place for safekeeping at the expense and risk of the customer, as well as to insure the delivery or service items.

- (2) If PALLMANN is entitled to demand compensation for damage instead of performance, then PALLMANN can, without prejudice to the possibility of asserting greater actual damages, demand 15% of the total price as liquidated damages. The customer reserves the right to prove a lower degree of damage.

7. Force Majeure

- (1) PALLMANN shall not be liable if delivery is not possible or is delayed and this is caused by force majeure or other events unforeseeable at the time of conclusion of the contract (e.g. business disruptions of all kinds, difficulties in procuring material or energy, transport delays, strikes, legal lockouts, shortages in energy or raw materials, official measures, or outstanding, incorrect or untimely delivery by suppliers) for which PALLMANN is not responsible. If such events render it difficult or impossible for PALLMANN to deliver or perform a service, and the obstruction is not only temporary in nature, then PALLMANN shall be entitled to withdraw from the contract. For obstructions of a temporary nature, the delivery or service performance deadlines shall be extended or postponed by the time period of the obstruction, plus a reasonable period for restarting.
- (2) If as a result of the delay it cannot reasonably be expected that the customer accept the delivery or service, it can withdraw from the contract by giving PALLMANN immediate written notice.
- (3) If PALLMANN foresees that the goods cannot be delivered within a delivery deadline, then the customer shall immediately be informed thereof in writing; the customer shall be notified of the reasons for the delay as well as, where possible, of the anticipated delivery date.

8. Payment Conditions

- (1) Provided nothing else has been agreed upon, the agreed prices are understood to be in EURO, ex-works, plus the statutory value added tax, as well as customs, freight, packaging and transportation insurance costs. Import and export duties shall be charged separately. An insurance policy for the goods to be shipped shall be taken out by PALLMANN only upon request and at the customer's expense.
- (2) Invoiced amounts must be paid immediately without any deduction. Receipt by PALLMANN is decisive for the date of payment. In case of failure to pay, the customer shall be deemed to be in default without further reminder. Discounts and rebates will only be given under separate agreement.
- (3) PALLMANN expressly reserves the right to accept bills of exchange or cheques. Bills of exchange and cheques are only accepted subject to the consent of PALLMANN, and only count as payment after being credited without reservation. Costs for discounts and bills of exchange shall be paid by the customer.
- (4) If PALLMANN has several outstanding claims against the customer, and payments have not been made by the customer for a certain claim, then PALLMANN shall be entitled to establish for which of the outstanding claims the payment was rendered.
- (5) In case of payment arrears, deferral or partial payment, PALLMANN shall be entitled to demand default interest of 9 percentage points above the relevant base interest rate, and to withhold further services until all invoices that are due are settled. Proof of a higher degree of damage remains reserved.

- (6) In case of justified doubts regarding the solvency or creditworthiness of the customer, e.g. in case of payment default, sluggish payment methods etc., PALLMANN shall be entitled to demand prepayment or a suitable security deposit for the service to be rendered by the customer. If the customer is not ready for this then PALLMANN shall be entitled to withdraw from the contract after a reasonable extension period, and to demand compensation for damages due to non-performance.
- (7) Set-off with counter-claims or retention of payments due to such claims by the customer is only permissible if the counter-claims are undisputed or legally established.
- (8) The payment terms granted shall cease to apply and outstanding claims shall be immediately payable if the opening of an insolvency procedure for the customer's assets is applied for, the customer has made incorrect statements regarding its creditworthiness, or other justified doubts regarding solvency or creditworthiness of the customer exist.
- (9) If the value added tax is not contained in PALLMANN's billing based on statements of the customer (e.g. in case of "intra-Community supply" in the sense of § 4 No. 1b in conjunction with 6a UStG (Umsatzsteuergesetz [German VAT Act]) and PALLMANN satisfaction is charged with a payable VAT amount (§ 6a IV UStG), the customer shall be obligated to pay the appropriate amount to PALLMANN. This duty exists irrespective of whether PALLMANN subsequently has to pay value added tax, import sales tax, or comparable taxes domestically or abroad.

9. Place of Performance, Risk Transfer, Packaging

- (1) The place of performance for the services stated in the order is PALLMANN's place of business or the external and/or forwarding warehouse from where the goods are furnished. If nothing else has been agreed, the customer shall collect the goods once ready for pickup at PALLMANN's place of business. The place of service and performance of the contractual duties owed by the customer shall always be the place of business of PALLMANN.
- (2) The risk of destruction, loss or damage to the goods passes to the customer upon receipt of a ready-for-pick-up notice.
- (3) If dispatch was agreed to, the risk passes upon the dispatch of the goods or the handover thereof to the transportation company commissioned.
- (4) Packaging material and loading aids, such as pallets, shall be provided by PALLMANN for use only. They must be returned within 30 days of the actual date of delivery in an undamaged condition, freight paid, to PALLMANN's place of business or an external and/or forwarding warehouse at the choice of PALLMANN. If this does not take place, then PALLMANN shall be entitled as of the 31st day after delivery, to bill for a daily lump sum fee for use of EUR 0.50 plus statutory VAT in respect of each

leftover item of packaging material and/or loading aids. The overall usage fee to be paid shall, however, in no case amount to more than EUR 25, plus statutory VAT. One-way packaging materials are to be disposed of properly by the customer.

- (5) Extra costs for a more urgent dispatch method as required by the customer shall be paid for by the customer. This also applies if it was agreed individually that regular freight costs are assumed by PALLMANN.

10. Duty of Inspection and Complaint

- (1) The items delivered must be inspected carefully and immediately after delivery to the customer or to the third party designated by it.
- (2) In case of damage to or loss of the goods during transport, inventory shall be taken immediately, and PALLMANN shall be informed thereof. Claims arising from any transport damages must be lodged immediately with the forwarder by the customer.
- (3) The delivered items shall not be deemed as contractually rendered if PALLMANN does not receive a written notice of defects concerning obvious defects or other defects that could be recognised in case of an immediate careful inspection, within seven working days of delivery of the delivery items; otherwise within seven working days of discovery of the defect or at an earlier point in time at which the defect was recognisable to the customer during normal use of the delivery items without closer inspection.
- (4) If requested by PALLMANN, the delivery item that is the subject of the complaint shall be sent back to PALLMANN freight paid. After consulting with PALLMANN about the most economical mode of shipment, PALLMANN shall reimburse that expense in case of an authorized notice of defects; this does not apply if the expenses increase because the delivery item is located at a different place than the place of intended use.

11. Material and legal Defects

- (1) If a defect in delivery or service items from PALLMANN exists, then PALLMANN shall be entitled, at its own choice, to either subsequent improvement, replacement delivery or credit.
- (2) After coordinating with PALLMANN, the subsequent improvement can also be undertaken by the customer. Claims of the customer based on the expenditures required for the purpose of subsequent performance, in particular costs related to transport, methods, work and materials, are excluded if the expenditures increase because the goods were subsequently brought to another place than the place of business of the customer.

12. Liability

- (1) The liability of PALLMANN for damages, irrespective of the legal basis, in particular due to impossibility, default, deficient or incorrect delivery, breach of contract, culpa in contrahendo and impermissible action, is restricted in accordance with this Clause 12, in so far as it is at fault.
- (2) The restrictions in this Clause 12 do not apply to the liability of PALLMANN due to deliberate conduct, for guaranteed quality features, for injury to life, limb or health, or under the Produkthaftungsgesetz [Product Liability Act].
- (3) PALLMANN shall not be liable in the event of simple negligence on the part of its management bodies, legal representatives, employees or other agents, as long as breach of essential contractual duties is not at issue. Among the essential contractual duties are those to effect timely delivery of the delivery item, its freedom from legal as well as such material defects as compromise its functionality or suitability for use more than insignificantly, as well as duties related to consultation, protection and care which should make it possible for the customer to use the delivery item in accordance with the contract, or which aim to achieve protection of the life or limb of personnel of the customer or protection of their property against significant damages.
- (4) If PALLMANN is liable for damages in accordance with the preceding paragraph, then this liability shall be limited to damages which PALLMANN foresaw upon conclusion of the contract as a possible consequence of breach of contract, or which should have been anticipated when applying the proper business care. Indirect damages and subsequent damages that are a consequence of defects in the delivery item can also only be replaced if such damages are typically to be expected in case of use of the delivery item according to its designation.
- (5) In case of liability for simple negligence, the replacement obligation of PALLMANN for material damages and further property damages resulting from them is limited to an amount of EUR 15 million per damage event (corresponding to the current coverage amount of its product liability insurance policy or liability insurance policy), even in cases of a breach of essential contractual duties.
- (6) The aforementioned liability exemptions and limitations apply to the same extent in favour of the management bodies, legal representatives, employees and miscellaneous agents of PALLMANN.
- (7) If PALLMANN gives out technical information or becomes active as a consultant and this information or advice does not belong to the contractually agreed scope of service owed by it, this shall take place free of charge and to the exclusion of any liability.
- (8) If the customer takes recourse against PALLMANN due to the claims of third parties, the liability of PALLMANN shall be excluded if the customer for its part has limited the liability effectively towards its buyer. The liability of PALLMANN for recourse claims is excluded if these exceed the statutory claims regarding defects and compensation for damages on the basis of an agreement made between the customer and its buyer.
- (9) The customer is required to inform PALLMANN of any claims brought by third parties immediately in writing, and to reserve to PALLMANN all means of defence and actions related to settlement.

13. Term of Limitation

- (1) In the cases of §§ 438 Para. 1 No. 2, 479 and 634 a Para. 1 No. 2 BGB, in case of deliberate intent, of fraudulent concealment of a defect, for claims for compensation of damages due to personal damages or the freedom of a person, for claims arising from the Product Liability Act and in case of gross negligent

breach of contract, the legally required terms of limitation apply to the claims of the customer. In all other cases, the term of limitation for claims and rights due to defects in products, works or services of PALLMANN, as well as the damages arising from them, lasts one year.

- (2) Subsequent performance measures shall neither impede the term of limitations applicable for the original rendering of services nor cause the term of limitation to begin again.

14. Reservation of Ownership

- (1) The provisions below serve to secure all existing and future claims of PALLMANN against the customer deriving from the business relationship existing between them.
- (2) The goods supplied by PALLMANN to the customer shall remain the property of PALLMANN until all secured claims have been paid in full. The goods as well as the goods covered by the reservation of ownership replacing them under the provisions below are referred to hereinafter as the "reserved goods."
- (3) The customer shall keep the reserved goods safe for PALLMANN free of charge.
- (4) The customer is entitled to process and to sell the reserved goods up to the onset of an enforcement event in the course of ordinary business transactions. Pledging or assigning security is not permitted.
- (5) In the event of a further sale of the reserved goods, the customer shall assign immediately the claim arising from it against the acquirer to PALLMANN. The same applies to miscellaneous claims which replace the reserved goods or arise otherwise in regard to the reserved goods, such as insurance claims or claims deriving from impermissible action in case of loss or destruction. PALLMANN gives revocable authorisation to the customer to collect claims assigned to PALLMANN in its own name. PALLMANN may revoke this direct collection authorisation only in case of an enforceable event.
- (6) If third parties gain access to the reserved goods, in particular through attachment, the customer shall immediately notify them that they are owned by PALLMANN and shall inform PALLMANN in order to facilitate for it the enforcement of its ownership rights. If PALLMANN so requests, the customer must give all required disclosures about the stock of the reserved goods and about the claims assigned to PALLMANN, as well as making its customers aware of the assignment. The customer shall support PALLMANN in all measures that are necessary to protect the ownership of PALLMANN to the reserved goods, and shall pay the costs resulting from this.
- (7) PALLMANN shall release the reserved goods as well as the items taking their place or claims if their value exceeds the amount of the secured claims by more than 20%. The selection of the items to be released thereafter lies with PALLMANN.
- (8) If PALLMANN withdraws from the contract as a result of anti-contractual behaviour (enforceable event), on the part of the customer - especially in case of payment default - then PALLMANN shall be entitled to demand surrender of the reserved goods.
- (9) The customer's right to dispose of the goods that are under the PALLMANN reservation of ownership as well as to collect the claims assigned to PALLMANN expires as soon as it no longer fulfils its payment obligations and/or files an application for the opening of insolvency proceedings. In the aforementioned cases as well as in the event of other anti-contractual behaviour of the customer, PALLMANN shall be entitled to take back the goods delivered under reservation of ownership without a reminder.

15. Confidentiality

- (1) The customer shall treat confidential all aspects of the business relationship worthy of protection.
- (2) A duplication of the documents left to the customer is only permissible in the context of business requirements and provisions related to copyright law.

16. Final Provisions

- (1) The place of jurisdiction is the competent court of PALLMANN's place of business. PALLMANN is entitled to assert claims against the customer at its place of business as well.
- (2) For the business relationship with the customer, the law of the Federal Republic of Germany applies exclusively, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG).
- (3) Should individual portions of these TAC be ineffective for commercial dealings, then the effectiveness of the remaining provisions shall not be affected by it. In consideration of their bilateral interests and the individual agreement, the contractual partners shall strive to agree on an effective clause that most closely approximates the economic purpose and legal sense of the original wording.

Note:

The customer takes note of the fact that PALLMANN stores data from the contractual relationship in accordance with § 28 of the Bundesdatenschutzgesetz [Federal Data Protection Law] for purposes of data processing, and reserves the right to transmit the data to third parties, for example insurance companies, should it be necessary for fulfilment of the contract.

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