



**1. Scope**

- 1.1 Subject to deviating provisions of individual contracts these Terms and Conditions for Sales and Delivery (hereinafter referred to as "the Terms and Conditions") shall exclusively apply to all contracts concerning deliveries and other performances (hereinafter referred to as "the Delivery") that a company of the PALL Group Germany (hereinafter referred to as "Pall") as the supplier concludes with a company as contemplated by Section 310 para. 1 of the German Civil Code (BGB) as a customer (hereinafter referred to as "the Customer").
- 1.2 Deviating or supplemental terms and conditions of a Customer are not accepted by Pall unless Pall expressly agreed to them in writing.
- 1.3 For any further contracts with the same Customer, these Terms and Conditions shall also be valid even if they are not expressly referred to.

**2. Offer, Conclusion of Contract and Documents**

Offers by Pall are not binding. Contracts are only concluded upon written order confirmation by Pall. Any supplements or additions that were not made in writing will only become binding upon written confirmation of such supplements or additions by Pall. Pall reserves any property rights and copyrights vested in all offers and other documents. These must neither be reproduced nor made available to third parties without Pall's consent and must be returned to Pall after the execution of the contract or in case of a failure of the contractual negotiations.

**3. Delivery terms, Shipping and Passage of Risk**

- 3.1 Delivery deadlines are only binding if they have been expressly agreed in writing. Delivery terms shall not start to run before clarification of all technical questions. Pall's obligation to perform is subject to Pall obtaining correct and timely delivery. Delays in delivery because of events of force majeure or other circumstances that cannot be influenced by Pall will lead to an appropriate extension of the delivery deadlines. Partial deliveries are allowed unless these are recognisably not of interest for the Customer. In case of a partial delivery, Pall is entitled to the contractual consideration attributable to the performed part of the delivery.
- 3.2 If Pall is in delay of deliveries the Customer has the right to withdraw from the contract only if Pall is responsible for the delay and after exasperation of an appropriate delivery time limit set by Customer.
- 3.3 Pall is liable for delayed deliveries according to statutory provisions provided that the delay is caused by a deliberate or grossly negligent contract violation on the part of Pall or one of Pall's managerial employees. Except of deliberate contract violations, liability is limited to foreseeable, usually occurring damages. In addition, Pall is liable for delayed deliveries according to the statutory provisions if the delay is based on the violation of a material contractual obligation. However, liability remains limited to foreseeable, usually occurring damages. Above that, Pall is liable for a lumpsum compensation of 0.5 per cent of the value of the delivery for each completed week of delay whereas the maximum amount shall not exceed 5 per cent of the value of the delivery.
- 3.4 If the Customer is in default in accepting a delivery or culpably violates other duties to cooperate, Pall is authorised to claim compensation for the damage resulting thereof including possible additional expenses. Further claims remain reserved.
- 3.5 If no other agreements have been made shipping will be done "Ex works" at the Customer's expense and risk. The choice of route of shipment and means of transportation shall be at Pall's reasonable discretion. The risk passes to the Customer upon the delivery of goods to the shipping agent, carrier or other person or entity charged with the shipment; this shall also be valid for partial deliveries and even in those cases where goods are delivered by Pall. Should the delivery be delayed for reasons within the Customer's responsibility the risk will pass to the Customer upon the notification of the readiness for shipment being received by the Customer.

**4. Prices and Payment**

- 4.1 Subject to other agreements on prices, the prices indicated in the current price list at the time of delivery shall be applicable. All prices are Ex works exclusive of packaging, delivery and insurance costs plus the statutory value added tax and possible customs duty. Invoice amounts are payable within 14 days from the date of the invoice. Deviating payment terms and trade discounts require special agreements in writing. Regarding the consequences of a delay in payment, the pertinent statutory regulations shall apply.
- 4.2 Payment by bills of exchange or cheques must be specially agreed upon. Bills of exchange and cheques shall be credited to the Customer by Pall on account of performance and free of charges.
- 4.3 The Customer is entitled to a possibly existing statutory set-off right only with respect to outstanding accounts receivable which are recognized by declaratory judgment, ripe-for-judgment, undisputed or accepted by Pall. The Customer is entitled to possibly existing statutory rights of retention with only respect to those accounts receivable resulting from the same contractual relationship with Pall.
- 4.4 If, after the conclusion of the contract, the Customer's financial standing or solvency considerably declines or Pall learns about such declining at an earlier point in time, and if the Customer does not meet his payments due to Pall, Pall reserves the right to claim payments before the agreed due date, to make the delivery of unpaid goods contingent upon the provision of reasonable securities or advance payment

and, in case of discounted bills, to claim premature payment. If within a reasonable period of grace granted by Pall the Customer neither makes advance payments nor provides securities, Pall is entitled to rescind the contract in accordance with the applicable statutory regulations.

**5. Liability for Defects**

- 5.1 Warranty claims of the Customer are subject to the condition that he properly fulfilled his investigation and complaint obligations under Section 377 of the German Commercial Code (HGB). Apparent defects must be reported within one week after receipt of the respective goods at the latest, other defects within one week after their discovery at the latest. Notifications of defects are to be made in writing.
- 5.2 Condition warranties [nb: warranties according to Section 443 para. 1 German Civil Code (BGB)] are principally not given by Pall unless explicitly agreed upon in writing. In particular, data in catalogues, price lists, and other information material made available to the Customer by Pall must in no case be understood as condition warranties [i.e. warranties under Section 443 para. 1 German Civil Code (BGB)].
- 5.3 Upon request by Pall, the rejected goods or the rejected parts thereof must be returned to Pall for examination on Pall's account. If the underlying notice of defects proves to be unjustified Pall is entitled to an according compensation claim.
- 5.4 Any claims of the Customer which might arise because of a defect shall be limited to the right of subsequent performance. Subsequent performance will be done, at the discretion of Pall, by elimination of the defect or delivery of goods free from defects. If subsequent performance should fail the Customer has, at his own discretion, the right to rescind the purchase contract or to reduce the purchase price.
- 5.5 Claims of the Customer because of defects become statute-barred after one year beginning from the delivery of the respective goods. This shall not be valid (1) in case of intent or malicious silence with regard to a defect, (2) in case of deviating content of a warranty furnished by Pall in accordance with Section 443 of the German Civil Code (BGB), and (3) in case of goods which were used for a building in line with its usual manner of use and caused the defectiveness of such building. The period of limitation of one year stipulated in sentence 1 does not apply to claims for damages because of defects if such defects result from acts of gross negligence by Pall's legal representatives or managing clerks or in case of personal injury. The one-year period of limitation for claims because of defects does also not apply to defects concerning a right in rem or another third party right entered in the land register; in these cases, the period of limitation shall be three years. The statutory provisions concerning the statutory limitation of possible claims under a right of recourse in accordance with Section 479 of the German Civil Code (BGB) and the limitation and preclusive periods under the German Product Liability Act shall remain unaffected.
- 5.6 Furthermore, Pall is liable for damages because of a defect only in accordance with Section 7.
- 6. Retention of title
  - 6.1 The goods delivered by Pall (hereinafter also referred to as "goods subject to Pall's title of ownership") remain Pall's property until all claims deriving from the business relationship with the Customer have been paid in full.
  - 6.2 In case of current accounts the goods subject to Pall's title of ownership serve to secure the open account balance which Pall is entitled to.
  - 6.3 The Customer is only entitled to sell the goods subject to Pall's title of ownership within the ordinary course of business. Selling or delivering to countries who are not members of the European Union (EU) is only allowed upon explicit consent by Pall. The Customer is not allowed to transfer the goods subject to Pall's title of ownership for the purpose of securing a debt or to otherwise dispose of the goods subject to Pall's title of ownership endangering Pall's ownership. The Customer assigns, already by now, his claims resulting from reselling the goods subject to Pall's title of ownership to Pall. Already by now, Pall accepts this assignment. If the Customer sells the goods subject to Pall's title of ownership after processing or transformation or after connection, mixing or blending them with other goods or together with other goods, the assignment of claim shall apply in an amount corresponding to the price agreed between Pall and the customer plus a safety margin of 10 per cent. The Customer is revocably authorized to collect the claims assigned to Pall on his own behalf but as fiduciary of Pall. The authorization to collect the claims as well as the authorization to resell the goods subject to Pall's title of ownership may be revoked by Pall if the customer is in delay with essential contractual obligations, e.g. payments to Pall.
  - 6.4 The processing or transformation of the goods subject to Pall's title of ownership by the Customer is always accomplished for Pall. If the goods subject to Pall's title of ownership are processed together with other goods, Pall is entitled to co-ownership in the new object at a share corresponding to the relation of the value of the goods subject to Pall's title of ownership and that of the other processed goods at the time of processing. For the new processed good the same provisions apply as for the goods delivered subject to Pall's title of ownership.
  - 6.5 In the event that the goods subject to Pall's title of ownership are connected, mixed or blended with other goods, Pall acquires co-ownership in the new object at a share corresponding to the relation of the value of the goods subject to Pall's title of ownership and that of the other goods at the time of connection, mixing or blending. In the event

that the goods subject to Pall's title of ownership are connected, mixed or blended in a way that makes the object of the Customer the principal thing, it is considered as agreed that the Customer transfers to Pall his proportional joint ownership in the whole object. The Customer shall hold the co-ownership in safe custody for Pall.

- 6.6 At any time the customer will provide Pall with all desired information about the goods subject to Pall's title of ownership or about claims which hereafter have been assigned to Pall. The customer must immediately notify access or claims by third parties on goods subject to Pall's title of ownership to Pall upon handing out all necessary documents to Pall. The Customer shall at the same time inform the third party about the existing retention of title. The costs for defending such access and claims are to be borne by the Customer.
- 6.7 The Customer undertakes to handle the goods subject to Pall's title of ownership with care during the retention period.
- 6.8 If the realisable value of securities exceeds Pall's outstanding account to be secured by more than 10 per cent, the Customer is insofar authorized to request release.
- 6.9 In case of delay of essential contractual obligations, e.g. in case of a default in payment, Pall is without prejudice of other rights entitled to take back the goods subject to Pall's title of ownership and in order to satisfy due claims against the Customer make use of them otherwise. In this case the Customer will immediately grant Pall or Pall's agents access to the goods subject to Pall's title of ownership and hand them over. If due to this provision Pall requests handing over, this does not constitute a rescission of the contract.
- 6.10 In case of deliveries to countries with other legal systems where the aforementioned provisions concerning retention of title do not have the same securing effect as in Germany, the Customer will use his best endeavours to immediately furnish corresponding security rights. The Customer shall assist in the performance of all measures, e.g. registration, publication etc., necessary and appropriate for the effectiveness and enforceability of such security rights.
- 6.11 The Customer is obliged to arrange for adequate insurance coverage for the goods subject to Pall's title of ownership on its expense, to provide Pall with evidence of such insurance coverage and to assign to Pall the claims resulting from the insurance contract.
- 7. Liability
  - 7.1 Pall is liable in accordance with the statutory provisions if the Customer asserts claims for damages resulting from intention and gross negligence of Pall's legal representatives or managerial employees. As far as Pall did not deliberately violate the contract, the liability remains limited to foreseeable, usually occurring damages.
    - Pall is liable in accordance with the statutory provisions if Pall culpably violates a material contractual obligation; in this case, the liability remains limited to foreseeable, usually occurring damages.
    - Pall is liable in accordance with the statutory provisions in case of malicious silence with regard to a defect and in case of condition warranties [furnished in accordance with Section 443 of the German Civil Code (BGB)].
  - 7.2 The liability because of a culpable injury to the life, body or health of a person remains unaffected; this shall also be valid for the mandatory liability under the German Product Liability Act. In the case of reselling the delivered goods unchanged or after processing, mixing or blending with other goods, the Customer exempts Pall in the internal relationship from claims asserted by third parties for damages resulting from defects caused by the Customer.
  - 7.3 As far as not otherwise laid down above, any liability shall be excluded.
  - 7.4 The liability limitations stipulated in this Section 7 shall also apply to a possible liability of Pall's legal representatives, managing clerks and executive employees employed in the performance of Pall's obligations towards the Customer.
- 8. Industrial Property Rights
  - In the event that the Customer directs by special instructions, data, documents, drafts, or drawings the manufacturing process of the goods to be delivered by Pall, the Customer is responsible that the rights of third parties, e.g. patents, registered designs, or other industrial rights and copyrights are not violated thereof. The Customer exempts Pall from all claims of third parties resulting from a possible violation.
- 9. Export
  - In the case of reselling the delivered goods to foreign countries, the Customer must in each case observe the export regulations of German law, the laws of the European Union as well as US laws. Upon demand, the Customer shall immediately put the corresponding evidence at Pall's disposal.
- 10. Place of Performance, Legal Venue and Applicable Law
  - 10.1 The law of the Federal Republic of Germany shall govern excluding the law of the UN Convention on Contracts for the International Sale of Goods (CISG). The place of performance for delivery and payment is the place of passage of risk. Legal venue is the residence of the company of the German Pall group in question concluding the contract.
  - 10.2 The invalidity of any provision or the unenforceability of these Terms and Conditions, e.g., in the event of a delivery to a foreign country, does not affect the validity of the other provisions. The Customer is obliged to agree to a valid and enforceable provision proposed by Pall that comes as close as possible to the purpose of the replaced provision.