

GENERAL CONDITIONS OF SALE

I. GENERAL TERMS AND CONDITIONS

1. Legal relations between Pollmann Austria GmbH (hereinafter referred to as "POLLMANN") and the Purchaser in connection with deliveries and/or services of POLLMANN (hereinafter referred to as "Deliveries") shall be solely governed by the present General Conditions of Sale. Terms and conditions of the Purchaser shall apply insofar as they have been expressly approved by POLLMANN in writing. These Conditions of Sale shall apply even if POLLMANN makes deliveries to the Purchaser unconditionally or accepts payment from the Purchaser while being aware of differing terms and conditions of the Purchaser. These Conditions of Sale shall also apply to future deliveries until new Conditions of Sale of POLLMANN take effect even if no specific mention is made of them in individual cases.
2. POLLMANN herewith reserves unrestricted exploitation rights based on its industrial property rights and copyrights pertaining to its cost estimates, drawings and other documents (hereinafter referred to as "Documents"). The Documents shall not be made accessible to third parties without POLLMANN's prior consent and shall, upon request, be returned without undue delay to POLLMANN if the contract is not awarded to POLLMANN. Sentences 1 and 2 shall apply mutatis mutandis to the Purchaser's Documents; these may, however, be made accessible to those third parties to whom POLLMANN has permissibly transferred Deliveries.
3. POLLMANN shall have the right to make partial deliveries.
4. The term "claims for damages" used in the present General Conditions of Sale also includes claims for reimbursement of futile expenses.

II. CONCLUSION OF THE CONTRACT AND CHANGES TO THE CONTRACT

1. Legal transactions between POLLMANN and purchasers require the written form; they may, however, also be performed via remote data transmission.
2. Verbal agreements at the time of or after conclusion of the contract are valid only if they have been confirmed in writing by POLLMANN.

III. PRICES, TERMS OF PAYMENT, AND OFFSET

1. Prices are ex works excluding packaging plus the statutory value added tax in effect at the time.
2. Payments shall be made free POLLMANN's point of payment.
3. In case of substantial changes of external factors which directly impact the setting of sales prices, POLLMANN shall have the right to adjust sales prices.
4. If an agreement for partial payment has been made, the full invoice amount is due immediately if Purchaser is in default of a partial payment.
5. The Purchaser may only offset those claims which are undisputed or have been established as final.

IV. RETENTION OF TITLE

1. POLLMANN shall retain ownership of the purchased item until payment has been made in full. If the Purchaser acts contrary to the contract, particularly in case of delayed payment, POLLMANN shall have the right to take back the purchased item. Taking back the purchased item by POLLMANN does not constitute withdrawal from the contract unless POLLMANN expressly declares such a withdrawal in writing. The proceeds from sales shall be credited to Purchaser's liabilities – minus reasonable sales costs.
2. For the duration of the retention of title, the Purchaser shall handle the purchased item with care. In particular, Purchaser is obligated to adequately insure the purchased item at Purchaser's expense against damage from fire, water and theft at replacement value. Any necessary maintenance and inspection activities shall be performed by the Purchaser at Purchaser's expense. The Purchaser shall promptly notify POLLMANN of any access to the purchased item by third parties including, without limitation, of enforcement measures and of any damage to or destruction of the purchase item. The Purchaser shall notify POLLMANN immediately in writing of a change in ownership to the item and its own change of address. The Purchaser shall reimburse POLLMANN for all damages and costs arising from a breach of this obligation and the resulting necessity to take intervention measures against any access by third parties to the purchased item.

3. POLLMANN shall have the right to withdraw from the contract if the Purchaser acts contrary to the contract, especially in case of default of payment, and demand return of the purchased item. In addition, POLLMANN shall have the right to withdraw from the contract and demand return of the purchased item in case of any breach of a duty according to Art. IV No. 2.
4. The Purchaser shall have the right to resell the purchased item in the ordinary course of business. The Purchaser assigns to POLLMANN at this time all claims in the amount of the invoice amount accruing to the Purchaser vis-à-vis a third party through the resale and undertakes to affix a corresponding note in Purchaser's books or on Purchaser's invoices. POLLMANN shall accept the assignment. Following the assignment, the Purchaser is authorized to collect the claim. Upon commencement of the business relationship with the POLLMANN, a corresponding general assignment note shall be placed in the Purchaser's list of open items. POLLMANN shall reserve the right to collect the claim itself as soon as the Purchaser fails to properly meet its payment obligations and falls into arrears.
5. Any treatment or processing by the Purchaser shall be done in the name of and on behalf of POLLMANN. If an item is processed, POLLMANN shall obtain co-ownership of the new item in relation to the value of the delivered item. The same shall apply if the item is processed or mixed with other objects not belonging to POLLMANN.

V. DELIVERY DATES; DEFAULT

1. Compliance with delivery dates requires the timely receipt of all Documents, necessary permits and releases, especially drawings, to be furnished by the Purchaser as well as the Purchaser's compliance with agreed payment terms and other obligations. If these conditions are not met in a timely manner, delivery periods shall be reasonably extended; this shall not apply if POLLMANN is responsible for the delay.
2. If non-compliance with delivery dates is due to force majeure such as mobilization, war, riots or similar events, e. g. strike or lockout, such delivery periods shall be reasonably extended. The same shall apply if POLLMANN does not receive its own deliveries from its supplier in due time or in due form.
3. If POLLMANN is in default, the Purchaser – insofar as it provides proof of having suffered a loss therefrom – may claim compensation of 0.5 % for every completed week of default, but no more than a total of 5 % of the price of that part of the Deliveries which could not be put to the intended use due to the default.
4. Purchaser's claims for damages due to delayed Delivery as well as claims for damages in lieu of performance exceeding the limits specified in No. 3 above shall be excluded in all cases of delayed Delivery, even upon expiry of a delivery period imposed on POLLMANN. This shall not apply in cases of intent, gross negligence, or injury to life, body or health. Withdrawal from the contract by the Purchaser based on statute is limited to cases where POLLMANN is responsible for the delay. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser.
5. If POLLMANN is in default, the Purchaser shall, at POLLMANN's request and within a period of time specified by POLLMANN, declare whether it withdraws from the contract due to the delayed Delivery or insists on the Delivery.
6. If, at the Purchaser's request, dispatch or delivery is delayed by more than one month beyond notification of the readiness for dispatch, the Purchaser may be charged, for every additional month commenced, storage costs of 0.5 %, but no more than a total of 5 % of the price of the Delivery items. The parties to the contract may, at their discretion, prove that higher or lower storage costs have been incurred.

VI. TRANSFER OF RISK

1. Even if Delivery is freight free, the risk shall transfer to the Purchaser as follows:
 - a. If the Deliveries do not include installation or assembly, the risk shall transfer to the Purchaser at the time when the items are shipped or picked up. At the Purchaser's request and at its expense, POLLMANN shall insure the Deliveries against the usual risks of transport;
 - b. if the Deliveries include installation or assembly, the

risk shall transfer to the Purchaser on the day of acceptance at the Purchaser's place of business or, if agreed in writing, after a fault-free trial run.

2. If dispatch, delivery, the start, the performance of installation or assembly, the acceptance at the Purchaser's place of business, or the trial run is delayed for reasons for which the Purchaser is responsible or if the Purchaser has otherwise failed to accept the Deliveries, the risk shall transfer to the Purchaser as soon as the items are ready for shipment.

VII. DEFECTS

POLLMANN shall be liable for defects as follows:

1. If the defect existed already at the time of transfer of risk, POLLMANN shall choose between repair, replacement or re-performance of the defective parts of the performance.
2. Claims for supplementary performance shall become time-barred after 12 months calculated from the start of the statutory period of limitations; this shall also apply in case of withdrawal and price reduction. This time limitation shall not apply where mandatory longer periods are prescribed by law, in case of intent, fraudulent concealment of the defect or non-compliance with a quality guarantee. The legal provisions regarding suspension of expiry, suspension and recommencement of limitations shall not be affected.
3. Notifications of defect by the Purchaser shall be given in written form without undue delay.
4. In case of notification of a defect, the Purchaser may withhold payments to an extent that is in reasonable proportion to the defects that occurred. The Purchaser may retain payments only if a notice of defect is asserted and there can be no doubt about its justification. The Purchaser has no right of retention if the statute of limitation for its claims has expired. Unjustified notifications of defect shall entitle POLLMANN to demand from the Purchaser reimbursement of expenses POLLMANN has incurred therefrom. POLLMANN shall be given the opportunity to supplementary performance within a reasonable period of time.
5. If supplementary performance is unsuccessful, the Purchaser is entitled to withdraw from the contract or reduce the remuneration in proportion to the defect -notwithstanding any claims for damages according to Art VII, No. 10.
6. There shall be no claims based on defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usability, of natural wear and tear, or damage arising after the transfer of risk from faulty or negligent handling, excessive stress, unsuitable equipment or claims based on particular external influences not assumed under the contract. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof are likewise excluded.
7. The Purchaser shall have no claims with respect to expenses incurred in the course of supplementary performance including, without limitation, costs of transport, travel, labor, and material, to the extent that expenses are increased because the object of Delivery has subsequently been brought to another location than the Purchaser's place of business, unless the transfer corresponds to the normal use of the object of Delivery and was agreed on in writing.
8. The Purchaser's claims to recourse against POLLMANN shall be valid only insofar as the Purchaser has not concluded agreements with its customer exceeding the scope of the statutory provisions governing claims based on defects. The provisions of Part VII of these Conditions of Sale shall apply mutatis mutandis to the scope of the right of recourse the Purchaser has against POLLMANN.
9. The Purchaser shall have no claims for damages based on a material defect. This shall not apply in case of a fraudulent concealment of the defect, non-compliance with the quality guarantee, in case of injury to life, body, health or liberty and intentional or grossly negligent breach of duty on the part of POLLMANN.
10. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser. Any further or other claims of the Purchaser based on a material defect beyond the claims provided for in this Article VII are excluded.

VIII. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHTS;

1. Unless otherwise agreed, POLLMANN shall provide the Delivery free from third parties' industrial property rights and copyrights

(hereinafter referred to as "Industrial Property Rights") only in the country of the place of delivery. If a third party asserts justified claims against the Purchaser based on an infringement of Industrial Property Rights by Deliveries made by POLLMANN and used in conformity with the contract, POLLMANN shall be liable to the Purchaser within the time period stipulated in Article VII No. 2 as follows:

- a. POLLMANN shall, at its option, acquire, at its own expense, a right of use with respect to the Deliveries concerned, modify them such that they no longer infringe the Industrial Property Right or replace them. If this not possible for POLLMANN under reasonable conditions, the Purchaser may withdraw from the contract or reduce payment as provided by law.
 - b. POLLMANN's liability to pay damages shall be governed by Article X.
 - c. The above obligations of POLLMANN shall apply only insofar as the Purchaser immediately notifies POLLMANN of any claims asserted by the third party in written form, does not acknowledge the existence of an infringement and leaves any protective measures and settlement negotiations to POLLMANN's discretion. If the Purchaser stops using the Delivery in order to reduce the damage or for other important reasons, the Purchaser shall be obliged to point out to the third party that no acknowledgement of the alleged infringement of an Industrial Property Right may be inferred from the fact that use has been discontinued.
2. Claims of the Purchaser shall be excluded insofar as the Purchaser is responsible for the infringement of the Industrial Property Right.
 3. Claims of the Purchaser are also excluded insofar as the infringement of the Industrial Property Right is caused by specifications made by the Purchaser, by a type of use not foreseeable by POLLMANN or by the Delivery being modified by the Purchaser or being used together with products not provided by POLLMANN.
 4. Otherwise, the provisions of Article VII Nos. 4, 5, and 9 shall apply mutatis mutandis to claims by the Purchaser pursuant to Art. VIII No. 1 a) in the event of infringements of Industrial Property Rights.
 5. If there are other defects, the provisions of Art. VII shall apply accordingly. Any further or other claims of the Purchaser than those provided for in this Art. VIII based on a defect of title against POLLMANN or its agents in performance are excluded.

IX. IMPOSSIBILITY; ADAPTATION OF CONTRACT

1. Insofar as Delivery is impossible, the Purchaser shall be entitled to claim damages, unless POLLMANN is not responsible for the impossibility. The Purchaser's claim for damages shall, however, be limited to 10 % of the value of the part of the Delivery which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in cases of intent, gross negligence or injury to life, body or health; this does not imply a change in the burden of proof to the detriment of the Purchaser. The Purchaser's right to withdrawal from the contract shall remain unaffected.
2. Where unforeseeable events substantially change the economic importance or the content of the Delivery or substantially affect POLLMANN's business, the contract shall be adapted taking into account the principle of good faith. To the extent this is not reasonable for economic reasons, POLLMANN shall have the right to withdraw from the contract. If POLLMANN intends to exercise this right of withdrawal, it shall notify the Purchaser thereof without undue delay after having realized the repercussions of the event; this shall also apply even where an extension of the delivery period was first agreed with the Purchaser.

X. OTHER CLAIMS FOR DAMAGES; STATUTE OF LIMITATIONS

1. Claims for damages of the Purchaser based on whatever legal grounds including, without limitation, breach of duties arising in connection with the contractual obligation and tort are excluded.
2. This shall not apply insofar as liability is mandated by law, e. g. under the Product Liability Act, in cases of intent, gross negligence, injury to life, body or health, or breach of essential contractual obligations. However, the claim for damages arising from a breach of essential contractual obligations shall be limited to the foreseeable typical contractual damage unless caused by intent

or gross negligence or based on liability for injury to life, body or health. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser.

3. Insofar as the Purchaser is entitled to claims for damages, they shall be time-barred upon expiration of the statute of limitations pursuant to Art. VII No. 2. The same shall apply to the Purchaser's claims in connection with actions undertaken to avoid damage (e. g. recalls). In case of claims for damages under the Product Liability Act, the statutory provisions regarding the statute of limitations shall apply.

XI. VENUE AND APPLICABLE LAW

1. All disputes or claims arising from contracts which are subject to these Conditions of Sale, including disputes regarding the applicability of these Conditions of Sale as well as the validity, breach, dissolution or invalidity of the contract, shall be decided by final judgement according to the Rules of Arbitration (Vienna rules) of the International Arbitral Centre of the Austrian Economic Chamber (VIAC) by three arbitrators appointed according to these rules. The place of arbitration shall be Vienna.
2. Legal relations in connection with this contract shall be governed by Austrian substantive law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XII. TERMINATION

1. POLLMANN may terminate the contract in whole or in part - following prior written notice - at any time without stating reasons after the time period indicated.

XIII. BINDING NATURE OF THE CONTRACT

The legal invalidity of one or more provisions of this Agreement in no way affects the validity of the remaining provisions. This shall not apply if continuation of the contract would be an unreasonable hardship for one of the parties.