

# GENERAL TERMS AND CONDITIONS OF PURCHASING

## 1. GENERAL

1.1. PALFINGER purchases goods and services exclusively on the basis of these purchasing terms. These purchasing terms are hereinafter referred to as the PT, shall form an essential element of all contracts and shall also apply in future to all further purchases and/or orders and the associated legal transactions and contracts.

1.2. PALFINGER is referred to hereinafter as the purchaser, abbreviated as P. Its contract partner shall be referred to hereinafter as the contractor, abbreviated as C.

1.3. If individual terms of these PT shall infringe current or future binding law, this shall not affect the other provisions of these PT. The invalid provisions shall be replaced by legally valid provisions that are as similar as possible.

1.4. All organs and representatives of the P shall only be entitled to commit the P within the framework of these PT.

1.5. Collateral agreements and/or amendments going beyond the aforesaid shall be invalid unless confirmed in writing by the organ of the P entered in the Commercial Register as having powers to represent using the company signature.

1.6. Any conditions of the C in conflict with the present terms shall be invalid unless an amendment is made by mutual agreement in accordance with the formal requirements of Sec. 1.5.

1.7. All legal issues resulting from the business relationship and the PT shall be settled according to Austrian law.

1.8. The P hereby notifies the C that its data shall be processed and stored automatically by means of a data processing system. The processing shall be for the purpose of automating written communications and payments transactions. The data shall not be transmitted to any other parties.

1.9. Orders issued orally shall only be effective if confirmed in writing by the P in accordance with the formal requirements of Sec. 1.5.

1.10. All orders by the P shall only be binding if they have been accepted in full in writing by the C using the attached confirmation of order within 10 days after the date of the order. If the written confirmation of order is not received by the P within this period, it shall not longer be bound by the order.

1.11. Delivery calls shall become binding at the latest if the C does not object within 10 days following receipt.

## **2. PRICES AND TERMS OF PAYMENT**

2.1. The purchaser's prices set out in the order shall be net prices and contain no Value Added Tax; agreements concerning customs, fees, etc., or packaging and dispatch and delivery costs shall be set out in the particular order.

2.2. The prices shall be fixed prices. Price increases occurring in the meantime imposed by the C's suppliers, or for raw materials, wages, operating costs, fees, taxes or customs and the like shall not justify an increase in price.

2.3. The C shall submit the invoice in two copies to the P's address – irrespective of the delivery address – immediately following delivery. The wording of the invoice shall be such and the invoice broken down such that it can be compared unambiguously with the order and that the invoice can be verified. The invoice shall state order number, component number and order details.

2.4. Unless separate payment agreement has been concluded, the following modes of payment are agreed:

2.4.1. Payment within 90 days net at the P's discretion by bank or postal transfer, own three-month accepted bill or customer bill of exchange.

2.4.2. For payment within 45 days: deduction of 1% discount

2.4.3. For payment within 20 days: deduction of 3% discount

2.6. Transfers by the P can – at its own unlimited discretion – be made to any account of the C with the effect of discharging the debt.

2.7. COD deliveries will only be accepted by the P after prior notification.

2.7.1. The P's down payments shall bear interest at bank rates. The P's payments shall first be credited to capital and then to interest.

2.7.2. The C's provisions concerning reservation of title shall not be permissible and shall be ineffective.

## **3. QUOTATIONS, PLANS, DESCRIPTIONS, DOCUMENTS AND QUALITY**

3.1. Our inquiries are without obligation and commit us to no payment or refund for the quotation whatsoever. The quotations shall correspond exactly with the text of the inquiry and shall contain the inquiry number noted at the head of the inquiry. Deviations from the inquiry in the quotation shall be specially emphasised. Alternative proposals may be submitted separately.

3.2. All plans, descriptions and documents provided by the P to the C shall remain the P's property and shall be returned at the latest together with the delivery.

3.3. The C shall keep these documents secret and shall ensure that they do not become known to third parties.

3.4. The C shall comply precisely with the P's quality standards for all supplies of goods and services. The C confirms that it is fully aware of the P's quality standards. Upon demand, the quality standards shall be sent to the C by the P.

#### **4. DELIVERY, PACKAGING AND DISPATCH**

4.1. The delivery dates and deadlines specified by the P shall be complied with exactly and shall be regarded as fixed dates. These dates and deadlines shall include corresponding freight times and are to be understood as "ARRIVAL OF THE GOODS AT THE DELIVERY ADDRESS".

4.2. As soon as it is apparent to the C that a delivery on time is not possible, it shall notify such specifying precisely the reasons and the exact duration of the delay, and obtain a statement from the P whether and under what conditions the P continues to desire performance of the contract. The P shall be allowed a period of at least 14 days for such statement.

4.3. In the event of a delivery by the C that is not exactly within the deadline, the P shall be entitled to withdraw from the contract without setting a grace period, and to demand refund of the entire damage resulting, including lost profit.

4.4. If the P is willing to accept a late delivery, the C undertakes to pay a penalty of 5% of the total contract sum for each calendar day of delay. This penalty shall not be subject to the judicial right of moderation.

4.5. Force majeure shall release the contract party affected from those obligations the performance of which has become impossible or unreasonable as a result of the event for the duration of its effect. Force majeure shall be understood as unpredictable events coming from outside and not preventable using reasonable means. The failure to comply with deadlines by sub-suppliers or transport enterprises and the failure to produce an acceptable component shall in any event not be counted as force majeure.

4.6. The P shall not be obliged to accept partial deliveries or deliveries before the agreed date.

4.7. The goods shall be packed by the C appropriately and correctly. All goods shall be supplied exclusively in licensed packaging (packaging regulation). If this is not the case, the P must be separately informed in writing. Comments on the invoice or delivery note shall not be acknowledged.

4.8. At the P's demand, the dispatch of the goods shall be notified in writing in good time.

4.9. If exceptionally on the basis of a separate writing agreement the P is to bear the costs of packaging and/or dispatch and/or transport and/or delivery, the C undertakes to ensure that the costs associated with such are kept as low as possible. For C's activity in this connection, only its own costs may be charged.

4.10. The non-acceptance of the goods by the P shall oblige the C to collect such goods within 8 days after notification. If the C fails to comply with this demand, the P shall be entitled to return the goods.

4.11. All returns for whatever reason shall be at the C's expense and risk.

## **5. ACCEPTANCE, WARRANTY, DAMAGES AND PRODUCT LIABILITY**

5.1. The place of performance for the C's delivery shall be the delivery address specified in each order.

5.2. The P shall not be obliged to examine the goods immediately after delivery, but shall be entitled to object to any defects within 30 days after acceptance (in the case of consignment goods, extended to 6 months). The P shall only examine the outside of the goods while retaining full claims for warranty and damages and all claims pursuant to the Product Liability Act. Defects appearing later shall be deemed to be concealed defects to which the warranty and damages provisions and the provisions of the Product Liability Act shall apply in full.

5.3. The warranty period is mutually agreed as being one year for movables.

5.4. The P shall be entitled to set short deadlines for the remedy of defects.

5.5. The P shall be entitled to determine where the remedy of the defect shall be carried out. It shall not be obliged to participate in the remedying of the defect.

5.6. The C also undertakes to refund the P for any indirect losses that result from the infringement of relevant statutory provisions and standards and applicable contractual conditions.

5.7. The C shall be obliged to pay damages even in the event of slight negligence.

5.8. The C shall be liable in full for goods or parts of goods obtained from sub-suppliers.

5.9. In the event of a remedy of defect by the C, the warranty period shall be extended by a further year.

5.10. By dispatching the goods, the C guarantees that they correspond with all relevant statutory provisions and standards in Austria, the contractual provisions and the international technical quality standard.

5.11. Goods that must bear a test mark according to Austrian laws must bear this mark and also satisfy the applicable provisions.

## **6. PROHIBITION ON ASSIGNMENT**

6.1. . The C may assign to third parties claims deriving from the contractual relationship with the P only with express consent in accordance with the formal requirements of Sec. 1.5.

## **7. LEGAL VENUE**

7.1. It is agreed that the exclusive legal venue for all disputes resulting from the business relationships between the contracting parties shall be the court competent for such cases in the City of Salzburg. This agreement on the legal venue shall also apply to actions on a bill of exchange.

## **8. MISCELLANEOUS**

8.1. Depending on the subject matter supplied, the P shall be entitled to inspect and regularly verify production and/or to reject faulty components during production.

8.2. The C shall hold the P harmless against any claims deriving from patents and industrial property rights in connection with the performance of the agreement.

8.3. The C confirms that it has received all the information and materials necessary for the performance of the contract. The C shall not be entitled to claim that it has not received information and documents from the P. The information and documents necessary for the performance of the contract shall be obtained by the C at its own expense. The "PALFINGER Quality Standard" shall be an essential element of this agreement and these PT. If the C is not in possession of this quality standard, it shall order such in writing from the P!

8.4 The C confirms to know the Code of Conduct published on [www.palfinger.com](http://www.palfinger.com), and declares to comply with its provisions.