

Terms and conditions of business of PALUX Aktiengesellschaft

I. General

- Through his signature the purchaser makes an irrevocable offer to buy which is valid for 4 weeks and which requires acceptance by the seller. The seller will accept by way of the order confirmation. If the order confirmation differs from the offer to buy then the order confirmation shall be deemed to have been accepted by the purchaser unless a written objection has been received within 12 days from the date of the order confirmation and no later than with acceptance of the item purchased without any reservations.
- In the case of call-off orders with or without determination of time the purchaser shall be under an obligation to notify the seller of the desired delivery date at least 8 weeks in advance by registered letter. The list prices applicable at the point of delivery shall apply. Price guarantees shall only be valid where they have been confirmed by the seller separately in writing.
- We do not recognize the general terms and conditions of business of the purchaser. Verbal agreements, subsequent amendments to the contract, ensured characteristics of the goods, delivery schedules etc., including the agreements made by our sales staff are only binding when confirmed to us in writing.**
- Only the company PALUX Aktiengesellschaft Bad Mergentheim is responsible for confirming and processing the contract. Complaints are exclusively to be addressed in writing to the company PALUX AG, F.a.o Manager Internal Sales, Wilhelm-Frank-Str. 36, 97980 Bad Mergentheim, Germany.**
- The place of fulfilment for both parties to the contract is Bad Mergentheim, in addition to the general place of jurisdiction the Local court (district court) Bad Mergentheim or the District court (regional court) Ellwangen are the responsible place of jurisdiction for traders for legal disputes arising from the contract, from contractual amendments and from any supplementary contract, for all complaints arising from these legal relations and for complaints in summary bill enforcement proceedings or proceedings restricted to documentary evidence. This is also applicable for legal disputes ensuing from the general contractual relationship with resellers.
- The agreed applicable law is the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on the International Sale of Goods.
- The seller expressly reserves the right to make changes to the equipment for the purposes of technical improvements.

II. Acceptance

The purchaser is under an obligation to accept the goods purchased. If he does not accept these for reasons for which the purchaser is responsible, he must pay 0.1% of the net contractual value in storage costs each day from the date of delivery plus applicable VAT. Furthermore the seller shall be entitled to have the goods stored by a third party at the expense and risk and on behalf of the purchaser.

III. Delivery

The delivery time is only indicated as an approximate value. If the delivery date stated by the seller as an approximate value is not met, the purchaser must set the seller a period for delivery of the delayed goods in writing, and this delivery period designated by the purchaser must be at least 6 weeks. No claims for compensation may be asserted for this period. If the seller does not meet its obligation to deliver within the period then the purchaser must set the seller a supplementary delivery period of at least 4 additional weeks with a declaration that it will refuse to accept the goods once this period has expired.

IV. Shipment and risk of loss

- Unless otherwise agreed, shipment shall be ex-works Bad Mergentheim, Germany at the risk of the purchaser (EXW Incoterms 2010).
- Risk shall transfer to the purchaser when the goods are handed over to the carrier, including where carriage is paid; where they are transported by own vehicles or vehicles provided by the seller then risk shall pass to the purchaser when they are loaded onto the transport vehicle. The seller must ensure adequate insurance protection in the latter case. **Any defect detected on delivery must be reported in writing to the post within 24 hours, the carrier within 4 days, or otherwise within 7 days.** The vendor must also simultaneously informed.
- Additional costs that are incurred through the special shipment modes desired by the purchaser as compared with the most cost-effective shipment mode shall be borne by the purchaser.

V. Assembly

Unless otherwise agreed, installation, connection and assembly of the item purchased are the responsibility of the purchaser and must be procured by the latter at his own costs and risk from the seller's authorised customer service department or in cooperation with this with due regard to the relevant applicable official regulations.

VI. Warranty and complaints

- Warranty claims against the vendor fundamentally lapse after 12 months after transfer of risk or, as agreed, after official acceptance, however, at the latest by invoicing.
- The purchaser only has a claim for rectification of defects attributed to material or production errors at the time of delivery. Warranty claims are inapplicable if the object delivered is not used in accordance with the user instructions, repaired by third parties without our permission, has been continued to be operated after detecting a fault, incorrectly installed, connected assembled or maintained, or has been damaged by local conditions or other personal negligence on the part of the purchaser, or negligence by the operating personnel of the purchaser. The warranty does not apply to expendable parts, such as gaskets etc., as well as for glass and porcelain parts, indicator lights, switches or temperature controls. Corrosive damage to stainless-steel parts due to defective maintenance of the stainless-steel surfaces or the influence of third parties, shall not give rise to claims under warranty. Any claim for the rectification of defects or under a warranty obligation includes solely the replacement of parts and materials through delivery of these; any expenditure for the customer service will not be reimbursed.
- The seller shall only be under an obligation to repair goods or to deliver new goods as it chooses where there is a justified warranty claim. Any claims for damages beyond this are excluded unless PALUX is subject to mandatory liability on statutory grounds for wilful intent or gross negligence.
- Defects will be rectified by the local responsible and authorised customer service department appointed by the seller. If a different customer service department of the seller which is not responsible for the area is used at the purchaser's request then the purchaser shall be responsible for the additional costs incurred through this.
- In the event of agreement to repair by a third party, the defective parts are replaced, whereby, the parts in question, or the replaced parts, must be returned to us free of charge and becomes our exclusive property. Further costs for travel, assembly etc. will not be accepted by us. In individual cases, we are authorized to provide replacement goods to the approximate current value, or to redeem the goods at invoice value, whereby, all further claims for damage are satisfied.
- No warranty claims shall exist for second-hand equipment.
- Warranty claims or other complaints must be made to the vendor within 8 days following transfer of the goods or following occurrence of the fault, in writing to Palux AG, F.a.o. Internal Sales Manager. Thereby, the defect must be accurately described.

VII. Payment / prices / turnover tax

- Unless otherwise agreed, invoices must be paid in full to PALUX Aktiengesellschaft Bad Mergentheim without deduction within 10 days following receipt of the invoice.** All payments must be made to PALUX Aktiengesellschaft Bad Mergentheim. The seller shall determine which claims shall be settled through the payments received. Any costs and/or fees that may be incurred with the payment shall be borne by the purchaser. Payment by cheque or bill of exchange is

only valid after they are cleared by the bank. If a cheque, bill of exchange or debit does not clear then the residual claim shall be due for payment immediately. If this residual claim is not settled within the period set then the seller shall be immediately entitled to withdraw from the contract and/or to demand compensation.

- All prices stated are exclusive of the statutory turnover tax at the rate applicable at the point of the actual delivery, irrespective of the turnover tax rate stated at the time of the quote.
- The purchaser may only offset claims of PALUX Aktiengesellschaft Bad Mergentheim if the purchaser's counter-claim is undisputed or determined in law, irrespective of the legal grounds for the counter-claim. Furthermore the purchaser may not assert any right to withhold performance under section 320 of the German Civil Code (BGB) or right of retention under section 273 BGB. The purchaser shall only have these rights that have been waived where it provides security for the amount of the seller's claim or residual claim, which must be provided by way of an absolute guarantee which is unlimited in time with a domestic bank which is licensed as a customs and tax guarantor.
- Irrespective of the due dates agreed, a balance shall be due for immediate payment where
 - the purchaser defaults on two successive instalments in whole or in part;
 - the purchaser discontinues payments, arrangement or bankruptcy proceedings are initiated against him or he seeks suspension of debt payments to his creditors or arrangement proceedings;
 - the purchaser breaches his mandatory obligations under the contract in a significant manner despite an official warning, or is in default of acceptance or fails to make the delivery call-off. The purchaser shall be under an obligation to make advance payments for the entire purchase price in the event of default of acceptance;
 - the purchaser dies and his successors do not assume the purchaser's mandatory obligations under the contract, expressly and in writing
 - it transpires that incomplete and/or false dispensations were made;
 - the purchaser's financial situation worsens significantly.
- In the case of partial deliveries which are fully functional in themselves, the seller shall be entitled to invoice these partial deliveries separately.**
- Payments from the purchaser shall be applied first of all in settlement of any costs, then to interest and then finally to the claims for the purchase price.
- The statutory regulations on acceleration of due payments are deemed to have been agreed without limitation.
- Discount rates agreed are only approved for deduction from final payment, insofar that all part payments agreed have been made within the time limit. Otherwise, the discount will be fully forfeited, i.e. also for part payments made within the time limit.
- If we are commissioned for the planning, development, design and/or individual manufacture of objects, these engineering services will be remunerated in accordance with the respective services provided in accordance with the applicable HOAI (fee imposed for architects and engineers).

VIII. Equipment returns

Redemption of special productions, or goods specifically made to customer requirements, is excluded. In the event that we exceptionally redeem brand new and unused series appliances, after previous and legally applicable signed agreement by PALUX AG, we invoice general costs of up to 15 % of the invoiced value of the goods. The costs for redemption, e.g. dismantling, transportation, labour etc. are borne by the purchaser.

IX. Retention of title

- All goods supplied and the proceeds from resale shall remain the property of the seller until all claims of the seller against the purchaser based upon any legal grounds whatsoever have been settled in full. In the case of an ongoing account the property shall be deemed to be a security retained for the seller's claim for the balance owed.**
- The purchaser shall be under an obligation to handle the goods carefully and to use them in accordance with the seller's usage guidelines and to insure them for an adequate amount for as long as the retention of title exists. The vendor must be informed immediately and in writing in the event that the goods are damaged, including where this has been caused by third parties or by the purchaser's vicarious agents.
- A purchaser who is not a reseller is not entitled to dispose of the goods without the seller's consent. In particular he may not sell or pledge them or assign them as security or surrender them to third parties for as long as liabilities still exist towards the seller. In the event that the goods supplied are seized the purchaser shall be under an obligation to inform the executive officer of the seller's title to the goods and to notify the seller personally of the intended or executed seizure by way of registered letter.
- The right of separation of the goods and of the proceeds shall be deemed to have been agreed for the purposes of section 47 of the Insolvency Ordinance in the event of insolvency or bankruptcy proceedings.
- If the purchaser does not meet his liabilities and the seller seeks to seize the item purchased then this shall not be deemed to be a waiver of the retention of title or of the claim for surrender.
- In the event that the seller asserts its retention of title as a result of default of payment, the purchaser undertakes to return the goods subject to the retention of title to the seller following a corresponding request from the seller without a decision of the courts being required for this.**

7. Special rules for resellers

- Resellers shall be entitled to resell the goods subject to the retention of title in the ordinary course of business.
- Where the goods subject to the retention of title are sold to a third party the proceeds or the claim for the proceeds from the sale shall pass to the seller. Any retention of title agreed between the seller and the third party shall be deemed to have been agreed for the benefit of PALUX AG.
- Any amounts collected shall be collected for the seller. Resale for the purposes of set-off is not permitted. In all other respects the purchaser shall be under an obligation to notify the third party of the title reserved for the seller in order that this may be observed accordingly in its appropriate form. In the event of a resale to third parties then through this contract the purchaser assigns any claims against the third party from the resale of the goods subject to the retention of title with all ancillary rights to PALUX AG and undertakes to disclose the assignment to the acquirer at the request of PALUX AG. Disclosure of the assignment shall only be requested where the purchaser is under an obligation to make immediate payments in accordance with VII 4 or for any other reason.
- In the case of sales to third parties the purchaser shall be liable in accordance with section 280 BGB where the preceding obligations are not met.
- If the contract is to be rescinded for reasons that are the purchaser's responsibility, the seller shall be entitled to demand the following amounts for the use and exploitation of the item and as compensation for a decrease in value:
 - 25% of the net purchase price for the first 3 months following delivery, 3.4 % per month for the next 9 months, 1.6% per month for the next 12 months, 0.7% per month for the next 36 months, for each month of the assignment that begins, plus statutory VAT as applicable in each case. The purchaser reserves the right to provide evidence that the reduction in value was less than these amounts.

X. Lump-sum consolidation of claims for compensation

IF PALUX Aktiengesellschaft has the right to demand compensation then PALUX Aktiengesellschaft may assert claims for 25% of the purchase price in damages without needing to provide evidence. The purchaser shall be entitled to assert and to prove that no damage has been suffered by PALUX Aktiengesellschaft at all or that any damage is considerably less than the lump sum. PALUX Aktiengesellschaft reserves the right to claim higher actual damages.

XI. Severability

In the event that any of the preceding provisions is invalid this shall not affect the validity of the remaining provisions. At the position of the ineffective condition, provisions should be provided that best reflects the economic purpose of the agreement under appropriate consideration of both parties.

XII. Notice in accordance with section 33 of the German Federal Data Protection Act (BDSG)

Your order-related information will be stored by us electronically.