

**TERMS AND CONDITIONS
OF SALE AND DELIVERY
POLO HANDELSAKTIENG-
ESELLSCHAFT**



1. Conclusion and termination of the contract

1.1 The offers of Polo Handelsaktiengesellschaft, with its place of business in Vienna FN 94705y), and its affiliated companies ("Seller" or "POLO") shall be not binding unless expressly referred to as binding. The contract shall be considered as concluded if POLO, after receiving the order of the contractual partner ("Buyer"), has sent to Buyer a written declaration of acceptance, signed with legal effect, in the form of an order confirmation, accepts, on its part, offers from Buyer by a declaration signed with legal effect, sent in writing, by fax or e-mail or if POLO starts carrying out the order within a reasonable period after receipt of the order. In no case shall POLO be obliged to carry out an order as long as Buyer has not returned the signed counter confirmation that had been sent to Buyer together with the order confirmation.

1.2 Contracts of POLO shall be subject to these Terms and Conditions of Sale and Delivery, except as otherwise expressly provided in special agreements between the parties. Other than these Terms and Conditions of Sale and Delivery shall not become part of the contract. They shall not even be accepted if POLO does not expressly object to them upon receipt. Even if our order confirmation refers to earlier orders or other documents of Buyer, their terms and conditions shall not be accepted unless expressly repeated in our order confirmation.

1.3 Modifications and deviations of or supplements to these Terms and Conditions of Sale and Delivery shall be effective only if there exists an express written agreement.

1.4 The international trade terms shall be interpreted in line with the INCOTERMS® 2010, as amended on the day of conclusion of the contract, except as otherwise provided in these Terms and Conditions of Sale and Delivery or special written agreements.

1.5 POLO shall be entitled at any time - without any liability arising for POLO therefrom - to terminate the purchase contract with Buyer immediately by written notice if Buyer's financial conditions deteriorate, Buyer's assets are subject to attachment which is not discontinued within 30 days of enforcement, Buyer assigns its assets to its creditors, a trustee is appointed for the creditors or Buyer has been in arrears with payments exceeding an amount of EUR 7,500.- for more than 30 days without their justification being contested for good reason.

1.6 If after conclusion of the purchase contract overall production and transport costs increase by at least ten percent, Seller shall be entitled to request reassessment of the price to cover its increased expenses for the duration of the cost increase. Such reassessment shall capture all goods that are scheduled for delivery to Buyer later than 14 days after receipt of the request. If no agreement can be reached during the stated 14 days, Seller may withdraw from the contract with regard to that part of the contract not yet delivered. Refund of the costs, expenses or damage incurred by Buyer from such withdrawal shall be excluded.

2. Delivery

2.1 Delivery periods shall start as at the date of conclusion of the contract but not before the date of performance of all of Buyer's obligations, in particular the provision of all required official permits (e.g. import licence). This shall not affect POLO's right to assert vis-à-vis Buyer reimbursement of expenses caused by a delay occurring within Buyer's sphere even if Buyer is not to blame for such delay.

2.2 If a down payment or the opening of a letter of credit is agreed, the delivery period shall start only upon receipt of the down payment or written proof that the letter of credit has been opened.

2.3 POLO shall be entitled to make part deliveries and early deliveries. If POLO notifies Buyer of the date of an early delivery, Buyer shall move up its obligations, in particular its payment obligations, by such period of time by which delivery has been made earlier.

2.4 a) Claims for payment of damages vis-à-vis POLO because of delays in delivery shall be excluded.

b) In the event of non-delivery by POLO Buyer shall grant a reasonable period of grace. If this period of grace expires or POLO declares not to deliver, Buyer shall be entitled to withdraw from the contract. Such withdrawal shall be effected within one week of expiry of the period of grace or the declaration of non-delivery either in writing or by fax or e-mail. Buyer shall not be entitled to any other rights apart from the right of withdrawal, in particular rights to damages or claims to performance.

2.5 For all deliveries and payments the place of performance shall be POLO's place of business unless a different place of performance has been expressly agreed in writing. The risk of danger and coincidence shall pass as soon as Seller has effected performance at the place of performance or the place set forth in the contract.

2.6 If Buyer does not take delivery of the goods provided at the place of performance or at the agreed date, Seller shall be entitled to store the goods at Buyer's risk and expense and charge them as if properly delivered and accepted.

2.7 The proper condition of the goods shall be subject to the technical standards of the manufacturing country. Deviations in terms of quality, dimensions and weight shall be permitted within the permissible standard deviations of the respective manufacturing country and the foreign suppliers. In the paper and paperboard business in any case the "General Trade Rules for Sales of Paper and Paperboard" of the Association of Swedish cellulose and paper manufacturers, version 1980, as amended at the time of conclusion of the contract, shall apply.

3. Price

3.1 The prices shall be ex place of performance, without packing, loading, transport, assembly, setup and insurance.

3.2 If it has been agreed between the contractual parties that Seller shall be responsible for transport, such transport shall always take place at Buyer's expense and risk. Prices notified to Buyer shall be based on ordinary carriage conditions and normal unimpeded transport conditions. Extra costs caused by incomplete loading, complications or impediments of the carriage or transport conditions as well as dead freight (unless caused by Seller intentionally or through gross negligence) shall be borne by Buyer. In the same way, Buyer shall bear the costs of dunnage, packing and securing material.

3.3 Increases in customs duties, freight charges, insurance premiums and other incidental expenses occurring after conclusion of the contract shall be borne by Buyer, also in the case of freight paid and duty paid deliveries. The same shall apply to such costs that newly arise after conclusion of the contract and to such extra costs that are caused by the fact that a different route of transport had to be used (e.g. railway instead of waterway or delivery via a different port). If the contract is concluded in a currency other than euro, the depreciation of the exchange rate between the date of conclusion of the contract and the date of payment shall be borne by Buyer.

4. Insurance and shipment

4.1 In the case of contracts on CIF basis or if Buyer expressly

asks for transport insurance, Seller shall be entitled but not obliged to take out insurance for 110 percent of the CIF value of the goods.

4.2 All pallets together with additional equipment and other packing and shipping material shall remain the property of Seller or its suppliers, except as otherwise provided in writing. Pallets together with additional equipment shall be returned without further request, other packing material shall be returned only at Seller's request. In all cases a return shipment shall be made freight prepaid to the factory of POLO's supplier or other manufacturer not later than within 30 days of delivery. If this term is exceeded, Seller shall be entitled to charge a lending fee. Seller shall reimburse the repair or replacement costs of damaged or lost pallets. For pallets used within the framework of the pool system the "General Terms and Conditions of the Austrian Pallet Pool", as amended at the date of conclusion of the contract, with the exception of the pallet cost contribution to be charged in every case.

5. Payment conditions

5.1 Payments shall be made according to the agreed payment conditions, excluding any retention or set-off rights with counterclaims accepted or not accepted by POLO. In particular, Buyer shall not be entitled to withhold payments on the basis of alleged warranty claims or claims for damages.

5.2 Unless specified to the contrary, directly after conclusion of the contract Buyer shall be obliged to open a confirmed, irrevocable letter of credit for Seller's benefit with an internationally operating and recognised bank, which allows for part delivery. All bank charges and other costs involved in the opening of the letter of credit, also in Seller's country, shall borne by Buyer.

5.3 In cases of shipment by rail the weight determined by railroad officials shall be decisive for establishing the weight of the quantities to be billed. In all other cases factory weighing shall be considered binding. Therefore, later objections to the weight cannot be considered.

5.4 Where billing is not gross for net, packaging and packing material shall be charged at cost price. Packing material shall be taken back only at Seller's request. This provision shall not apply to pallets and additional equipment (see 4.2).

5.5 In the case of a deterioration of Buyer's financial situation or default in payment also with regard to third-party claims Seller shall be entitled to withhold or discontinue delivery until Buyer provides a sufficient security or complies with its obligations, or withdraw from the contract without granting a period of grace.

5.6 In the case of default in payment interest on arrears of eight percentage points above the basic interest rate of the Austrian Central Bank shall be paid to Seller. However, if the prime rate of the major banks or the basic interest rate of the central bank of the state whose currency has been agreed for payment of the purchase price is above this level, interest of five percent above the prime rate or eight percentage points above the basic interest rate of the Central Bank of that state shall be paid. If Seller does not issue letters of credit, bank guarantees and similar in good time or does not extend the same in good time if necessary and requested by Seller, it shall be obliged to pay a contractual penalty of 0.25 percent of the value of the letter of credit, the guarantee or similar for each completed week of delay, subject to further claims for damages. In such cases as well as in other cases where Buyer violates the contract Seller shall be entitled to withhold due deliveries also from other contracts, accelerate all outstanding payments immediately and discontinue any services in connection with acknowledged warranty claims.

5.7 Unless otherwise agreed, all invoices shall be payable in Vienna.

6. Force majeure

6.1 Events of force majeure shall entitle the contractual parties to postpone delivery for the duration of the impediment and an appropriate start-up time or to withdraw from the contract in full or in part.

6.2 Force majeure shall be equivalent to strike, lockout, mobilisation, war, embargo, export and import bans, shortage of raw materials and fuel, fire, traffic blockages, operational disturbances of Seller or its suppliers or of transport as well as other circumstances that considerably complicate the transaction or make it impossible, i.e. no matter whether they occur at Seller, Buyer's suppliers or their subcontractors or at Buyer.

6.3 Force majeure shall be also equivalent to such circumstances that shake the economic basis underlying the contract to an extent unacceptable to the parties.

6.4 The party affected by the events of force majeure or equivalent events can be requested to state in writing within a reasonable period whether it wants to adhere to or withdraw from the contract. If the party does not make such statement within a reasonable period, the requesting party shall be entitled to withdraw. Item 2.4.b) shall apply accordingly.

6.5 Where up to the date of termination of the contract a product intended for Buyer has already been manufactured, stored or shipped by Seller's supplier or is in the process of being manufactured by such suppliers, Buyer shall be obliged to accept the product despite the termination of the contract by one of the parties if Seller so requests.

7. Retention of ownership

7.1 Seller shall retain ownership of the goods sold ("**Reserved Goods**") until full payment of the purchase price including all secondary claims (in the case of payment by cheque or bill of exchange until they have been honoured). Until then Buyer shall not be entitled to pledge the Reserved Goods to third parties or to assign ownership by way of security. Furthermore, Buyer shall be entitled to notify Seller in writing of the attachment of the Reserved Goods by third parties without delay. If Buyer's financial conditions deteriorate or it is in default of payment also with regard to third-party claims, Buyer shall be obliged to return the Reserved Goods not yet or not yet fully paid to Seller at its request without delay. If the goods are treated or processed, Seller shall acquire co-ownership in proportion to the value of the portions. When Reserved Goods are reclaimed or taken back, this shall constitute withdrawal from the contract only if the same is expressly declared. Buyer shall bear the risk of danger and coincidence for the Reserved Goods.

7.2 Buyer shall be entitled to resell the Reserved Goods in the ordinary course of business as long as it is not in default with regard to the purchase price demanded by Seller and other claims. Buyer's claims from resale of the Reserved Goods shall be herewith assigned to Seller. They shall serve as a security to the same extent as the Reserved Goods. Buyer agrees to disclose to Seller upon request at any time the names of the third-party debtors and the amounts of the claims. Seller shall be entitled to notify the third-party debtor of the effected assignment and to assert the assigned claim.

7.3 Incoming payments from Buyer's customers for Reserved Goods shall be primarily used to pay Seller and until then shall be kept separately from Buyer's other funds as trust funds in the name of Seller.

8. Warranty

8.1 Objects of sale sold by POLO shall be examined directly upon delivery and if a defect is found, POLO shall be notified of all defects without delay. Defects that cannot be discov-

ered at the time of delivery shall be reported directly after discovery. In all cases defects can be claimed only within a period of two weeks after delivery or discovery (in the case of hidden defects). Where the discovery of defects requires the taking of samples and lab tests, such defects can only be asserted within 30 days after delivery. In any case delivery shall mean the supply of the goods to the place of performance according to INCOTERMS® 2010. The notice of defects shall be given in writing or by fax or e-mail. The notice of defects shall list the defects separately and in detail. The defects shall be documented and substantiated without delay (e.g. by opinions of independent experts, analysis protocols, samples, etc.).

8.2 Apart from deviations from the required dimensions and properties customary in Austria, in particular such deviations with regard to paper and paperboard shall be permitted which are provided in the "General Trade Rules for Sales of Paper and Paperboard" of the Association of Swedish cellulose and paper manufacturers, version 1980, as amended at the time of conclusion of the contract. No warranty shall be given for any other technical properties as well as for special applicability of the goods.

8.3 Buyer shall not be entitled to withhold payments because of warranty claims raised by Buyer or other claims not recognised by Seller.

8.4 Claims arising from possible defects of the goods may refer only to specific defective items or partial quantities. In this respect, deliveries shall be considered as separable.

8.5 In the case of material or immaterial but remediable defects of the goods delivered POLO shall be entitled, at its discretion, to improve, reduce the price of or replace the goods. In the case of irremediable defects POLO shall be entitled, at its discretion, to replace the goods or grant a price reduction; if such defects are also material, POLO shall be moreover entitled to withdraw from the contract (cancellation of sale). Buyer shall have no right of choice by any means. Any claims vis-à-vis POLO beyond that, in particular the right to cancellation of sale, damages and substituted performance, shall be excluded; this shall apply, in particular, also to reimbursement of additional personnel costs, freight expenses, penalties for default and damage asserted by Buyer's customers or other third parties, as well as to possible downtime and production loss on the part of Buyer or its customers.

8.6 Warranty claims against POLO shall be subject to a limitation period of one month after written rejection of the notice of defects by POLO, however, not later than three months after delivery (in the case of obvious defects) or three months after discovery of hidden defects.

8.7 POLO may notify its supplier of warranty claims asserted vis-à-vis POLO within a reasonable period of time. Where POLO assigns its warranty claims or claims for damages vis-à-vis its supplier to Buyer, POLO shall be discharged from all obligations in this regard and Buyer may assert its warranty claims or claims for damages only vis-à-vis the respective supplier.

8.8 Until the notice of defect has been clarified, Buyer shall be obliged to take delivery of the goods, store them properly and in its own and Seller's interest take out insurance for them at the full purchase price plus transport and storage costs. Buyer shall be furthermore obliged to notify the forwarding agent of the defects within the period provided in the forwarding contract if transport damage is suspected.

8.9 If Buyer asserts defects, it shall make available at least 90 percent of the allegedly defective goods to Seller, the expert and the court or arbitration court in their unprocessed and unchanged state to allow samples to be taken. Upon failure to do so or if processing or any other change takes

place, Buyer shall forfeit its warranty claims. Seller or an authorised representative shall be entitled to be present during the taking of samples or the inspection by independent experts, courts or the arbitration court.

9. Agency business

In the case of agency business transactions, in particular but not exclusively in the distribution of packing machines, POLO shall not be entitled, in the absence of an express written declaration to the contrary, to conclude contracts and shall accept orders only on behalf of the respective supplier. In such cases POLO shall not be the customer's contractual partner and not Seller within the meaning of this contract. The respective supplier's general terms and conditions shall apply. From agency business transactions Buyer shall not derive any warranty, product liability or other liability claims vis-à-vis POLO. In particular, repairs or improvements of agency goods shall be carried out exclusively by the respective manufacturers or suppliers. POLO cannot provide any service infrastructure to Buyer for such purpose.

10. Product liability

10.1 Possible recourse claims addressed by Buyer or third parties to Seller under the title of "product liability" within the meaning of the product liability law shall be excluded unless the person entitled to recourse proves that the defect has been definitely caused within the sphere of Seller by gross negligence or intent.

10.2 Product liability for damage to property that Buyer uses in its capacity as entrepreneur shall be excluded.

10.3 In the event of resale Buyer shall be obliged to agree with its customer on an identical liability exemption clause in writing, binding such customer to agree, in turn, with its own customer also on an identical clause if such customer is an entrepreneur. If Buyer violates this obligation, Buyer shall be liable to Seller for all resulting disadvantages.

11. Liability

All claims not expressly granted to POLO under this contract or these Terms and Conditions of Sale and Delivery, in particular claims for damages, claims for setoff with counterclaims due or allegedly due to POLO as well as claims for retention of payments or services to POLO, shall be excluded for whatever legal ground they may exist. This shall apply, in particular, to collateral or consequential damage in the case of delayed or defective delivery or non-delivery.

12. Jurisdiction and applicable law

12.1 The venue for all disputes arising from or in connection with the contract or these Terms and Conditions of Sale and Delivery shall be the court having exclusive subject matter jurisdiction for the 1st district of Vienna. Buyer hereby expressly consents to the personal jurisdiction of such court. However, POLO shall also be entitled to assert claims before the court having subject matter jurisdiction for Buyer's place of business.

12.2 In cases where Buyer has its place of business in a country in which judgements of an Austrian court would not be enforceable, the parties shall agree that the arbitration court of the Austrian Economic Chamber (Vienna Rules) shall be the selected place of jurisdiction for all disputes pursuant to item 12.1., which shall apply the rules on expedited proceedings.

12.3 The contract as well as these Terms and Conditions of Sale and Delivery, in particular the arbitration agreement contained herein, shall be governed by Austrian law, excluding the principles of conflict of laws and the provisions of the UN Convention on Contracts for the International Sale of Goods.

13. Miscellaneous

13.1 Where the provisions of these Terms and Conditions of

Sale and Delivery are in conflict with other contractual provisions, such contradictory provisions shall be applicable in the following order:

- a) the contract provisions negotiated in detail;
- b) written supplements to the order confirmation;
- c) the provisions of these Terms and Conditions of Sale and Delivery;
- d) provisions from specifications;
- e) commercial custom or practice between the parties;
- f) optional law.

13.2 In the paper and paperboard business only, the "General Trade Rules for Sales of Paper and Paperboard" of the Association of Swedish cellulose and paper manufacturers, version 1980, shall apply, as amended at the time of conclusion of the contract, as far as they regulate matters not covered by the provisions of items 13.1 a) through c) of these Terms and Conditions or contain provisions that are more favourable for POLO than the provisions of these Terms and Conditions of Sale and Delivery.

13.3 Buyer shall give its express consent that its personal data may be stored and processed by Seller for the purpose of order processing and accounting by means of electronic data processing and may be forwarded also to Seller's affiliated companies as well as to companies put in charge of handling transportation.

13.4 Samples, catalogues, leaflets, drawings, plans, sketches, other technical documents and similar shall always remain Seller's intellectual property. Buyer shall not obtain any rights of use or exploitation rights of whatever kind, except as otherwise expressly provided in writing.

13.5 If individual provisions of the contract or these Terms and Conditions of Sale and Delivery or parts thereof are ineffective in full or in part, the remaining provisions or the unaffected parts shall remain effective. In the case of ineffective provisions or parts thereof the parties agree to replace the ineffective provisions by such provisions that most closely reflect the purpose of the ineffective provisions.

13.6 If no matter who resells the object of sale to a different region than that agreed without POLO's prior written consent, Buyer shall pay to POLO a contractual penalty that shall be due immediately and shall correspond to the price agreed in the contract for resale of the object resold, notwithstanding any further claims for damages. In addition, POLO shall be entitled to withdraw from all contracts with Buyer.

13.7 Assignment of claims existing vis-à-vis POLO shall be permitted only with POLO's written consent.

13.8 In the event that contracts or these Terms and Conditions of Sale and Delivery are drawn up in German and in another language, the provisions of the German version shall exclusively prevail in case of contradictions between these versions.

13.9 Headings have been included only as a matter of convenience and shall not affect the interpretation of these Terms and Conditions.

13.10 If POLO does not insist on compliance with individual provisions of the contract or these Terms and Conditions of Sale and Delivery, this shall not be considered a waiver. Any waiver shall be valid only for the case for which it is given rather than for other cases or other provisions. Where contractual practice develops between the parties, this shall not restrict any rights that POLO shall have under these Terms and Conditions or under applicable legal provisions.

13.11 Where POLO is entitled to rights under this contract, they shall not be exclusive but shall supplement all rights to which POLO is entitled under a different statutory basis.