

I. General

1. All (including future) goods and services supplied by PAKI shall be subject to the following terms and conditions. If the Customer's T&Cs are contrary to, or differ from, our T&Cs they are hereby expressly rejected and shall not be recognised by PAKI unless PAKI has expressly agreed to them applying in writing. In particular, the German General Forwarding Regulations (ADSp) as well as the General Short-distance Haulage Regulations (AGNB) shall not apply.

2. The Customer's contractual terms and conditions as well as ADSp and/or AGNB plus all the Customer's other general T&Cs in particular shall not constitute part of the contract even in those cases in which we do not expressly raise an objection again after receiving them. This shall apply in particular for all types of follow-on contracts.

With the receipt of the load carriers supplied from us by the Customer at latest, the Customer is assumed to have accepted our T&C.

3. Verbal agreements require our written confirmation to become subject matter of any contract. This requirement for written confirmation may only be cancelled by mutual agreement in writing. Our employees are not authorised to make verbal side agreements or verbal promises over and above the content of the written contract.

4. The quality standards in force at the point in time at which the contract is carried out (listed for the individual load carriers in Appendix 1) as well as the leaflets referring to them shall be binding upon both Parties.

5. In the event of contradictions with individual contractual agreements, they shall prevail over the general T&Cs.

6. Discrepancies in handling business transactions shall not constitute a claim of the Customer to amend these terms and conditions of business.

II. Offers and Conclusion of the Contract

Our offers as well as those of the Customer may be accepted within one week. The respective offer shall expire thereafter.

III. Handling

1. The loading / unloading time must be kept as short as possible, taking the quantity of load carriers into account. This means that the time must not exceed a maximum of 120 minutes in accordance with Section 412 II of the German Commercial Code [HGB]. Loading and unloading times in excess of 120 minutes will be charged at EUR 80.00 per hour, unless the Customer can prove that no losses at all have been or that the losses incurred are significantly lower than this lump sum.

2. If the Customer withdraws from an order confirmed by us in writing with our consent prior to the delivery of the load carriers, PAKI shall consequently be entitled to claim a lump sum equal to 30% of the order value to cover lost profit, unless the Customer can prove that no loss has been incurred or that the loss incurred is significantly less than this lump sum.

3. If the loading point named by the Customer fails to provide the collecting contractor with the notified load carriers or fails to do so as obliged, in spite of being notified to do so in advance by PAKI and not raising any objections thereto, and if, as a result an empty trip or detour to another loading point is necessary, PAKI shall be entitled to invoice the Customer for the costs incurred as a result. These shall amount to EUR 500.00 for an empty trip and to EUR 250.00 for a detour, unless the Customer can prove that such a loss has not been incurred at all or that the loss incurred is significantly lower.

4. The risk of accidental loss or damage shall only pass over to the recipient when the load carriers are actually handed over to the recipient (PAKi or the Customer) and not simply when they have been made available. Given this, Section 447 II of the German Civil Code [BGB] shall apply mutatis mutandis.

5. The Customer shall be responsible for transport insurance as well as other insurance policies covering the goods supplied by us.

6. We cannot be held responsible for delays in the supply of goods and services as a result of force majeure and as a result of events making it much more difficult or impossible to deliver, (this includes in particular strike, lock-outs, official regulations etc., even if they affect our suppliers or the business contracted by us to fulfil our liability). They shall entitle us to postpone the supply of goods and/or services by the duration of the hindrance plus a reasonable start-up time or to withdraw from some or all of the contract on account of that that part of the contract not yet fulfilled.

7. We shall reserve the right to select the despatch route and method.

IV. Condition, Warranty

Discrepancies from the standards stated under Number 1. 4. As well as any other manifest defects are in all cases to be notified immediately in writing while the delivering party is still present. Section 377 of HGB shall apply accordingly for all agreements between the Customer and us.

V. Prices and Terms and Conditions of Payment

1. The rate of value added tax shall be invoiced in addition to our prices.

2. Incidental costs such as expenses, toll charges and other fees etc. are not included and shall be invoiced separately.

3. All invoiced amounts shall, unless agreed otherwise, be due immediately in full.

4. Cheques, drafts and pallet notes shall not be valid as payment and shall only be accepted on account of performance.

VI. Ownership arrangement

1. The transfer of title to the load carriers over to the Customer or to third parties is not covered by the exchange or lease agreements.

2. All the load carriers handed over to the Customer or to third parties were and are the property of PAKI. They shall also remain the property of PAKI during the term of the contracts and after their expiry, subject to the load carriers being combined or mixed. PAKI is at the same time the indirect owner with the Customer as bailee within the meaning of Section 868 BGB. PAKI shall remain the owner of repaired or upgraded load carriers even after repair or upgrade in quality.

3. The Customer shall only be entitled to pass on the load carriers owned by PAKI subject to the consideration of the following provisions and subject to the provision that the accounts in accordance with Number VII.2. actually migrate to PAKI.

4. Pledging the load carriers and/or the accounts assigned in accordance with VII.2 owned by PAKI or assigning them by bill of sale as a security is not allowed. PAKI is to be notified immediately of any attempts to pledge the load carriers including information on the respective bailee.

5. If PAKI takes back some or all of the load carriers on the basis of its ownership in them, this shall only constitute a withdrawal from the contract in those cases in which PAKI has expressly stated that this is so.

6. The Customer shall insure the load carriers owned by PAKI against the normal risks such as, for example, fire, theft, and water damage, with normal levels of cover. The Customer hereby assigns his rights to compensation to which he is entitled caused by damage of the above types against the insurance companies or others obliged to pay compensation to PAKI up to the figure invoiced for the goods. PAKI accepts the assignment.

7. All claims shall persist until PAKI has been indemnified in full from all contingent liabilities PAKI has entered in the interest of the Buyer.

8. If load carriers are put together with other load carriers of the same type, without being modified, this will be treated as mixing within the meaning of the statutory regulations.

9. If repairs and/or upgrades are carried out, only PAKI shall be the manufacturer of any new load carriers which may be produced within the meaning of Section 950 BGB and this means that PAKI will be the sole owner. Given this, the service provider is also the bailee within the meaning of Section 868 BGB.

VII. Load carriers-Securities

The Customer hereby grants PAKI the following securities to secure all its existing and future claims – even if they are conditional and limited in time - arising from, and in connection with, this agreement:

1. Load carriers-Assignment by bill of sale as a security

The Customer hereby assigns to PAKI the entire stock of load carriers listed by type in Appendix 1) below which are on the Customer's premises, or which will in future be taken there, at the respective addresses named in the contracts (**Security collateral**); in so far as the Customer holds the ownership or co-ownership to the security collateral, or acquires this in the future, he shall transfer the ownership or co-ownership to PAKI when the agreement is entered into or when the load carriers are subsequently brought to the above-named locations at this point in time; hand-over shall be replaced by the Customer keeping the security collateral carefully in safekeeping for PAKI free of charge.

2. Load carriers-Blanket assignment

The Customer hereby assigns to PAKI all his existing and future accounts receivables against third parties on the surrender of all the types of load carriers mentioned under Appendix 1) as well as in the event of a genuine or fictitious load carrier current account arrangement (*echtes oder unechtes Ladungsträger-Kontokorrent-Verhältnis*) additionally the accounts receivables from balances struck and to be struck in the future, including the right to serve notice of termination on the current account arrangement and to balance the account (hereinafter known collectively as **accounts**); present accounts shall be transferred over to PAKI when this contract is signed, all future accounts shall be transferred over to PAKI as they materialise. PAKI accepts the assignment here and now.

VIII. Rights regarding securities

PAKI has the following rights to enforce the securities granted in Number VII:

1. The Customer shall, at PAKI's request, be obliged to: (i) hand over all the information and proof required to verify and assert a claim for the security collateral and the accounts, (ii) disclose to PAKI and its authorised persons all documents concerning the security collateral and the accounts at any time and (iii) forward to PAKI upon request a list each month about the security collateral as well as his existing accounts against third parties for the surrender of load carriers (including current account balances). These lists should include (a) the type, quality, quantity and storage location of the security collateral and (b) the names and addresses of the parties liable for the accounts, the date on which the respective accounts are payable as well as the respective type, quality and quantity of the load carriers.

2. To protect its justified interests, PAKI may (i) revoke the Customer's power of disposition and demand the hand-over of the security collateral as well as (ii) inform the third party debtors, also in the name of the Customer, that the accounts have been assigned. The Customer's authorisation to collect the account shall expire when the third party debtor is notified of the assignment.

3. Justified interests means in particular, if the Customer is in breach of his duties to handle the security collateral with care, disposes of it beyond proper business operations, fails to make payments due under this agreement on time or fails to carry out the duties listed in Number X.4. when due even after a two-week subsequent period of time has been set, or if he has stopped making his payments or if there is another reason for PAKI serving extraordinary notice of termination.

4. At the request of PAKI, the Customer shall be obliged to hand over specimen notification letters to inform third party debtors of the assignment. PAKI is entitled to reproduce these specimen notification letters.

5. In so far as PAKI does collect accounts itself, PAKI shall be entitled to take measures and enter into agreements with third party debtors which it considers to be appropriate. PAKI shall not assume an obligation to collect accounts.

6. The Customer shall furnish an assurance that he is entitled to dispose of the security collateral listed in his monthly stock lists without restrictions and in particular that the accounts have not already been assigned to third parties and that there are no third party rights extant to the security collateral and the accounts.

7. PAKI is, at the Customer's request, at all times obliged to release the securities hereby furnished in so far as their total value exceeds the secured claims by more than 10%, whereby PAKI shall be at liberty to decide which securities are to be released.

8. In the event that the security collateral and assigned accounts are realized, PAKI will use them to cover its secured claims and pay out any possible surplus to the Customer.

9. As soon as all the secured accounts of PAKI have been fulfilled completely after notice of termination takes effect, PAKI is obliged to transfer back remaining security collateral and to reassign unrealized accounts receivables back to the Customer.

IX. Special Purchasing Terms and Conditions

The warranty period for new load carriers sold by PAKI shall be one year. Used load carriers sold by PAKI, including load carriers in as-good-as-new condition shall not be covered by any warranty at all.

X. Stock confirmations

1. Once a month PAKI shall forward to the Customer a list in writing of the load carriers PAKI has handed over to the Customer (hereinafter known as reconciliation)

2. If the reconciliation is incorrect or incomplete, the Customer shall be obliged to raise an objection with PAKI within one month after receipt of same, including documented reasons for the discrepancy and a corresponding inventory on load carriers. Dispatching the complaint within the aforementioned objection period will suffice to be considered in time.

3. If an objection is not raised properly and on time within the named period of time, this shall be regarded as the Customer's confirmation that he has received the load carriers stated in the reconciliation and has not returned them by the cut-off date. In this case it shall be incumbent upon the Customer to prove that the reconciliation is incorrect or incomplete.

4. In addition to this, the Customer is obliged to return the balance confirmation issued at the end of each calendar six months, countersigned, to PAKI within one month.

XI. Price increases

Should the average market price of the load carriers handed over during the hand-over period increase by more than 10%, PAKI shall consequently be entitled to increase its fees accordingly by unilateral decision by notifying the Customer while observing a one-month's prior notice to the beginning of the month specified in the notice. In this case the Customer shall be entitled to serve extraordinary notice of termination. Such extraordinary notice of termination must be served within 2 weeks from the receipt of the fee increase notification and it shall take effect at the end of the month in which it was served.

XII. Ordinary and Extraordinary Termination

1. Ordinary notice of termination shall be determined in accordance with the regulations of the individual contract.

2. The Parties assume that for the period of time between notice of termination being served and the end of the contract, the quantity of goods exchanged will continue to be in the range of the quantities of the last six months. PAKI guarantees this quantity. Forward planning for this period of time is based upon this quantity. It constitutes the basis of the dispatching for this period of time. If the remaining term of the contract is less than six months, this latter period of time shall count.

3. Each Party shall be entitled to serve immediate extraordinary notice of termination inter alia in those cases in which:

- the other Party is in breach of a contractual obligation, e.g. an obligation to pay, or fails to comply with a due obligation and (i) a period of time specified within which a remedy must be effected has elapsed, or (ii) the other Party has been given a warning without this producing the desired effect or (iii) as a result of the particular circumstances of the individual case, such a warning was not necessary and / or
- there has been a significant deterioration in the financial status of the other Party or in the value of the securities it has furnished or such a deterioration is impending and as a result the contractual claims of the Party serving notice of termination are in jeopardy.

XIII. Delayed return / Non-return

Should the Customer not return the load carriers at the end of a period of notice or partial reimbursement, PAKI shall be entitled to claim reimbursement from the Customer at the respective average market price of such load carriers of similar type and quality (according to the quality standards listed in Annex 1) at that time, only after one additional period of grace of one month.

XIV. Miscellaneous

1. PAKI is entitled to assign its accounts to third parties for the purpose of financing.

2. The Customer shall only be entitled to offsetting rights and rights of retention if his counter-claims have been adjudicated or if they are not contested.

3. These business relationships and also all the legal relationships with customers having their company based outside Germany shall be governed by the law of Germany with the exception of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG - "Vienna Convention"). This shall not apply.

4. The place of fulfillment for all payments, in particular of exchange fees and/or rental fees as well as for the other services to be rendered by the Customer shall in all cases be the location of our main office, currently Eneppetal.

5. In so far as the Customer is a registered business within the meaning of the HGB, a legal entity under public law or a public law special fund, it shall be agreed that the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contract shall be the court where our main office is located, currently Eneppetal.

6. The Customer hereby furnishes an assurance that he shall only employ employees paid in accordance with the regulations in the version of the Minimum Wage Act in force at that time.

7. The Customer hereby undertakes to indemnify and hold harmless PAKI from any and all claims which may result from breaches against the Minimum Wage Act by the Customer, sub-contractors hired by him or employment agencies and their sub-contractors.

XV. Final Provisions

Should a provision in these T&Cs or a provision included in other agreements be or become invalid, the validity of all other provisions or agreements shall not be affected as a result. The invalid provision is to be replaced by another valid provision which comes closest to what the Parties would have agreed had they known in advance that the invalid provision was void.

General Terms and Conditions for all Goods and Services supplied by PAKi Logistics GmbH

CGV – Annexe 1

Quality standards of PAKi load carriers:

Euro pallet:	DIN EN 13698 1 IPPC ISPM 15, UIC Code 435-2, UIC Code 435-4
Box pallets:	UIC Code 435-3
Düsseldorf:	DIN 15146-4
H1 hygienic pallet:	GS1-requirements, EHI-requirements, DIN 55423-5, DIN 55423-6
E1/E2 meatbox:	DIN 55423-1, DIN 55423-2

Qualitätsstandards der PAKi-Ladungsträger:

Europalette:	DIN EN 13698-1, IPPC, ISPM 15, UIC-Kodex 435-2, UIC-Kodex 435-4
Gitterbox:	UIC-Kodex 435-3
Düsseldorfer:	DIN 15146-4
H1 Kunststoffpalette:	GS1-Anforderungsprofil, EHI-Anforderungsprofil, DIN 55423-5, DIN 55423-6
E1/E2 Kiste:	DIN 55423-1, DIN 55423-2