

PEFRA Aktiengesellschaft , Am Bühl 4; 84174 Eching / Weixerau; Tel.: 08709/9216-0
General Terms and Conditions

§ 1 General - Scope - Requirement for writing

- (1) Our terms and conditions of sales apply exclusively; we do not recognise conflicting conditions or conditions of the buyer which deviate from ours unless we have expressly agreed in writing that they should apply. Our terms and conditions of sale also apply where we make delivery to the buyer without reservation, in the knowledge of conflicting conditions or conditions of the buyer which deviate from ours.
- (2) All agreements entered into between us and the buyer for the purpose of implementing this contract have been set down in the contract in writing. This requirement for writing applies in particular if the parties have signed a contractual document. Moreover, a contract only comes into being if we have made an offer in our correspondence and the buyer has accepted this offer in writing. It is still in keeping with the requirement for writing if a verbal agreement between the parties is confirmed in writing by one side. A contract comes into being in this case if the recipient of the written confirmation has not rejected this confirmation within one week of being made aware of it. If we have sent an order confirmation to the buyer, in case of doubt the contents of this order confirmation shall apply.
- (3) Our terms and conditions of sale apply only to entrepreneurs within the meaning of § 24 of the German law on general terms and conditions.
- (4) If we have already entered into a contract with an entrepreneur within the meaning of the German law on general terms and conditions or an equivalent person on these delivery terms, then these delivery terms also apply to subsequent contracts without a requirement for these delivery terms to be incorporated into these later contracts.

§ 2 Offer - Offer documentation

- (1) Our offer is subject to change without notice, unless the order confirmation states otherwise.
- (2) We retain ownership of and the copyrights in diagrams, drawings, calculations and other documentation; you may not disclose these to third parties. This applies in particular to written documentation marked as "confidential"; the buyer requires our prior written consent before disclosing these to a third party.
- (3) Both parties undertake to treat in strict confidence and keep secret the information they obtain from the other side during contract negotiations and thereafter. They will also refrain from using these themselves for their own commercial or professional activity, unless the other party has expressly consented to same.
- (4) The right to make reasonable changes to colour, design and shape is not affected.

§ 3 Prices - Payment terms

- (1) We reserve the right to amend our prices accordingly in the event of price increases or reductions after the contract has been signed, particularly as a result of wage agreements or increases in the price of materials.
- (2) Statutory VAT is not included in our prices; it will be applied to the invoice separately at the statutory rate on the date of invoice.
- (3) The application of a discount requires specific written agreement.
- (4) Unless otherwise indicated in the order confirmation, the purchase price is due for payment net (without deduction) within 30 days of the date of invoice. If the buyer is in default of payment, we are entitled to charge default interest at a rate of eight per cent p.a. above the applicable discount rate of the German Bundesbank or its successor. If we are in a position to establish higher damages due to delay, we are entitled to claim these. The buyer is however entitled to provide evidence to us that we have not incurred damages as a result of the delay in payment, or that the damages were significantly lower.
- (5) Payments must be made to one of our bank accounts. Cheques and bank drafts will be accepted on the basis of special arrangements subject to their eligibility, and subject to their clearing and with the inclusion of all costs and expenses. A credit entry will be made on the date that we receive the proceeds. This does not affect an earlier due date for payment in the event of default by the buyer.
- (6) We are entitled, regardless of provisions of the buyer to the contrary, to set off payment first against previous debts and will inform the buyer of the type of set off applied. If costs and interest have already accrued as a result of the delay, we are entitled to first apply the payment to the costs, then to the interest and finally to the principal claim.
- (7) The buyer is only entitled to set off if its counterclaims are the subject of a binding legal order, are undisputed or have been acknowledged by us. The buyer is not entitled to any rights of retention in the event of disputed counterclaims.

§ 4 Delivery time

- (1) The delivery time stated by us does not begin until all technical questions have been clarified. Where duties of cooperation apply to the buyer, we are only obliged to meet the contractually agreed delivery time once the buyer has fulfilled its duty of cooperation.
- (2) If we are delayed through our own fault, liability for damages for ordinary negligence or unforeseeable events is excluded.
- (3) Once we have become delayed, the buyer is requested to agree a reasonable grace period with us. A reasonable grace period with a warning of rejection once the period expires without the appropriate action being taken entitles the party to rescind the contract; the buyer is only entitled to claim damages for non-performance in the amount of the foreseeable damages if the delay relates to intent or gross negligence; in all other cases liability for damages is limited to fifty percent of the damage evidenced, excluding liability for damages due to damage to property, the user or third parties or e.g. for production downtimes, the costs of removing obstructions, lost profit or other pecuniary losses etc.
- (4) The limitations to liability set out in subsections (2) and (3) do not apply if a commercial transaction where time is of the essence has been agreed; the same applies if the buyer can demonstrate that its interests in completion of the contract have ceased as a result of delay for which we are responsible.
- (5) Compliance with our delivery obligation assumes as a prerequisite the timely and proper completion of the obligations of the buyer.
- (6) If the buyer delays in accepting or breaches other duties of cooperation, we are entitled to demand compensation for the damages we incur, including any additional costs. In such cases the risk of accidental loss or deterioration of the purchased goods is transferred to the buyer at the point at which the delay in acceptance commences.

§ 5 Transfer of risk - Packaging costs - Delivery methods

- (1) Unless otherwise stated on the order confirmation, delivery is agreed "ex works/FCA Incoterms 2000".
- (2) If we have agreed with the buyer that we are to send the goods to the buyer, we reserve the right to select the shipping company and the method of transport.
- (3) The risk is transferred to the buyer as soon as the goods have been transferred to it for collection or have been transferred to a person nominated to receive the goods. When the goods are sent, the shipment will be sent complete with insurance against theft, breakage, transport/fire/water damage as well as other insurable risks at the request of the buyer and at its expense.
- (4) The return of transport packaging or any other type of packaging will not be accepted in accordance with the Packaging Ordinance; the exception is pallets. The buyer is required to dispose of the packaging at its own expense.
- (5) If the buyer wishes, the delivery may be covered by transport insurance; any associated costs are to be borne by the buyer.

§ 6 Warranty for defects - Damages - General warranty

- (1) The warranty rights of the Buyer require that it has complied fully with its inspection and notification obligations under §§ 377, 378 of the German Commercial Code.
- (2) If the purchased goods display a defect for which we are responsible, we are entitled to elect to either rectify the defect or provide a new item. In the event that we elect to rectify the defect, we shall bear the costs of materials, transport and labour, half of the costs of installation and removal, unless otherwise expressly agreed (e.g. in our order confirmation).
If we are not ready or able to rectify the defect/provide a new item or if this is impossible, in particular if this will cause an unreasonable delay for which we are responsible, or if the rectification of the defect/provision of a new item fails in some way, the buyer is entitled to elect either for cancellation of the contract (rescission) or a corresponding mark-down of the purchase price (reduction).
- (3) If a third-party accessory or replacement part is installed by a dealer, the use of which was not approved by PEFRA Aktiengesellschaft or the connection of which with a product delivered by PEFRA Aktiengesellschaft has caused a customer to suffer damages, the dealer is required to indemnify PEFRA Aktiengesellschaft from all resulting claims for damages.
- (4) Unless otherwise stated, any further claims by the buyer - regardless of the legal basis - are excluded. We are therefore not liable for damages which have not arisen in the items delivered themselves; in particular we are not liable for lost profits or other pecuniary losses by the buyer. Nos. 10 and 11 apply *mutatis mutandis*.
- (5) The foregoing exclusion of liability does not apply where the cause of the damages lies in our gross

negligence or intent or the gross negligence of our company executives. It also does not apply where the buyer claims damages under §§ 463, 480 subsection 2 of the German Civil Code for non-performance due to the absence of a warranted characteristic.

- (6) Our own liability requires that we have culpably breached a material contractual duty or a significant duty; in such cases our liability is limited to foreseeable damages typical for the type of contract.
- (7) The warranty period lasts for 1000 operating hours or 12 months, calculated from the transfer of risk, unless otherwise expressly agreed. This period is an expiry period and applies also to claims for compensation for consequential losses, provided the claims are not based on tort. Wear parts and tyres are not included.
- (8) We supply goods in accordance with the product descriptions specified by us or the buyer. The product descriptions of the buyer are only deemed warranted characteristics if they have been explicitly specified as such. If we have stated that we are prepared to create the goods in accordance with a functional specification of the buyer, this shall not be deemed to contain a warranty as to characteristics, unless otherwise agreed.
- (9) . Warranties for goods which have been rented or leased by PEFRA as lessor to the customer/buyer are subject to the specific leasing or rental conditions of PEFRA AG.
- (10) If vehicles or goods are provided to customers free or charge or in return for payment e.g. as a stop-gap solution, for test purposes or similar reasons, liability is excluded for all damage to property, the user or third parties or e.g. for production downtimes, the costs of removing obstructions, lost profit or other pecuniary losses etc. The goods/vehicles may not be passed on to a third-party user without the written consent of PEFRA AG. The prior express written consent/permission of PEFRA AG is required for any repairs by third parties, by the user or its agents to vehicles or goods within the meaning of this section and/or for any other arrangements (e.g. transport costs), otherwise PEFRA AG is freed from all obligations. In the event of tortious acts we reserve the right to claim for damages.
- (11) Warranty claims cannot be recognised if the damage is caused by the goods being repaired or otherwise processed by a third party or a person not authorised by us after leaving our premises or being used for a purpose other than the intended use or if the operating instructions, manufacturer's guidelines or other generally acknowledged rules were not followed. Neither are we liable for improper remedial work or changes/disassembly of the goods by the customer or a third party appointed by it.
- (12) The general terms and conditions apply *mutatis mutandis* for warranties etc. in the event of repairs or servicing.
- (13) No warranties apply in the event of impossibilities due to martial events, strikes, damage due to civil and military aviation, fire, manned and unmanned missiles, mass epidemics and damage due to nuclear power.

§ 7 Joint and several liability

- (1) Where our liability for damages is excluded or limited in accordance with § 6, this also applies to all other claims, including claims for fault in the conclusion of the contract, breach of ancillary obligations, in particular for claims under product liability in accordance with § 823 of the German Civil Code.
- (2) The provision in subsection (1) does not apply to claims under §§ 1, 4 of the German Product Liability Act, or for cases of incapacity or impossibility.
- (3) Where our liability is limited or excluded, this also applies to the personal liability of our employees, staff, agents, representatives and servants.
- (4) The expiry of claims between the supplier and the buyer is governed by § 6 subsection (7), unless claims under the product liability provisions of §§ 823 ff. of the German Civil Code which have not been legally determined are at issue.

§ 8 Safeguarding retention of title

- (1) We reserve the right to title in the goods delivered by us until all claims to which we are entitled from the buyer have been received. If the buyer acts in breach of this contract, in particular by defaulting on payment, we are entitled to take back the delivered items in question. Our taking back the purchased items does not represent rescission of the contract, unless we have expressly stated this in writing. However attachment of the purchased items by us always represents rescission of the contract. After taking back the items we are authorised to realise them, the proceeds of the realisation must be set off against the debts of the buyer - less the reasonable costs of realisation.
- (2) The buyer is required to treat the purchased items with care, in particular, it is required to insure them at its own expense at replacement value against fire, water and theft damage. Where maintenance and inspection works are required, the buyer must carry these out in good time and at its own expense.
- (3) In the event of attachment or other interventions by third parties, the buyer must immediately notify us so that we may commence an action in accordance with § 771 of the German Code of Civil Procedure. If the third party is not in a position to reimburse us the judicial and extra-judicial costs of a claim under § 771 of the German Code of Civil Proceedings, the buyer will be liable for the shortfall due to us.
- (4) The buyer is entitled in the ordinary course of business to resell the respective item supplied. However, the buyer hereby assigns to us all claims to the value of the final invoice amount (plus VAT) that accrue to it as a result of resale to other purchasers or third parties, irrespective of whether the purchased item was resold with or without further processing. The buyer remains authorised to recover the outstanding monies even after assignment. Our authorisation to collect the outstanding monies ourselves is not affected. We are however obliged not to move to recover the outstanding monies as long as the buyer complies with the payment obligations from the proceeds of the sale, does not default on payment and, in particular, has not been petitioned for insolvency or composition proceedings or ceased payments. If however such is the case, we may demand that the buyer disclose to us the claims assigned and its debtors, provide all necessary details for collection, hand over all associated documents and notify the debtors (third parties) of the assignment.
- (5) Any processing or restructuring by the buyer of the purchased goods shall always be undertaken for our benefit. If the goods are processed with other items not belonging to us, then we acquire joint ownership of the new item in proportion to the value of the goods to the other commingled items at the time of mixing. If the mixing is carried out in such a way that the buyer's item is to be viewed as the principal item, it shall be deemed agreed that the buyer transfers proportionate co-ownership to us. The buyer therefore safeguards the resulting sole ownership or co-ownership on our behalf.
- (7) The buyer assigns to us all claims required to secure our claims against it accruing as against a third party due to the connection of the purchased item to real estate.
- (8) We undertake to release securities due to us at the request of the buyer where the realisable value of our securities exceeds the claims to be secured by more than twenty percent; we shall select the securities to be released.

§ 9 Inspection and notification obligations where third-party accessories and replacement parts are used

- (1) If the authorised dealer uses accessories and replacement parts from third-party suppliers which have not been approved by PEFRA Aktiengesellschaft, it must ascertain independently that the product still meets in full the applicable safety requirements despite the modification. It must carry out regular tests and verify the findings. This does not release the dealer from the obligation to always inform PEFRA Aktiengesellschaft about the use of third-party accessories or replacement parts, so that PEFRA Aktiengesellschaft can carry out corresponding tests and take action at its own discretion

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§ 10 Legal venue - Place of performance - Final provisions

- (1) Unless otherwise stated in the order confirmation, the place of performance is our registered office.
- (2) The law of the Federal Republic of Germany applies to all legal relationships resulting from the contracts agreed between the parties and their legal successors, where applicable.
- (3) Insofar as the buyer is a registered trader, our registered office is the legal venue. However, we are also entitled to issue proceedings against the buyer at its place of residence.
- (4) Subsection (3) also applies to disputes involving the processing of deeds, cheques or drafts and for measures providing temporary legal protection.
- (5) Should individual provisions of these general terms and conditions of delivery be invalid, or if these general terms and conditions of delivery contain gaps, this does not generally affect the validity of the remaining provisions. This also applies to contractual agreements which the parties enter into in respect of the delivery of goods by us. A provision will be agreed in place of the invalid provision which corresponds to the meaning and purpose of the invalid provision. In the event of gaps, a provision shall be deemed agreed which corresponds in meaning and purpose to what would have been agreed in this agreement if the matter had been considered beforehand.

Section 11 Miscellaneous

We expressly reserve the right to make changes due to technical advances or due to production stoppages by our own suppliers.

The purchasing conditions of PEFRA AG also apply in addition to our general terms and conditions.

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These general terms and conditions come into force on 01/01/2014 and apply until they are replaced by a new version. The previous general terms and conditions are therefore no longer valid, even if they formed the basis of offers before this period.

PEFRA Aktiengesellschaft