

Standard Business Conditions PEK3 GmbH

1. Application

1.1. The following standard conditions apply to all contracts and dealings concerning the sale of goods or services between the buyer and ourselves, whether current or future, concluded or in the process of negotiation. Other conditions laid down by the buyer, even if informed to us, are not binding upon us unless specifically signed by an authorized signatory, even if we do not expressly reject such. The following conditions apply even if we do not specifically refer to them, even if the buyer does not acknowledge them and where we process an order without reservation, being aware that the customer has other standard business conditions.

1.2. All agreements between the parties shall be made in writing.

2. Offer and conclusion of contract

2.1. An order from a customer is treated as an offer to deal and is concluded by us sending either an order confirmation or the goods or services concerned within ten working days or the period specified in the offer to deal.

2.2. All our offers are subject to change, are non-binding unless specifically otherwise confirmed in writing.

2.3. We retain the copyright, intellectual property and other proprietary rights regarding all our drawings, illustrations, calculations, sketches and any other documentation. This is specifically the case also where development is performed and paid by a customer – the customer has indemnified us for our time and effort, but has not and does not acquire by such payment the copyright or intellectual property rights to any such design, drawing or development. The buyer may pass these on to third parties only with our written consent, irrespective of whether such work has been designated as confidential or not.

3. Delivery conditions and time

3.1. Our delivery conditions are EXW our warehouse according to Incoterms in the latest valid form. Packing is not included unless specifically stated otherwise on our order confirmation.

3.2. Dates given as delivery dates on our order confirmation are indicative and nonbinding, refer only to dates on which it is anticipated that goods will be ready for collection or on which the service can be performed. Any technical questions or any changes to an order can result in a delay in preparing such goods or services – such delay does not require separate confirmation but is understood between the parties. The buyer must fulfil all obligations and answer any relevant technical or commercial questions before the order can be completed.

3.3. If the contract between the parties is fixed in terms of performance date as referred to in the relevant paragraphs of the German Civil Code (§286 (2).2) and the German Commercial Code (§376) and provided that we have been informed that time is of the essence and have agreed to this condition then we are liable to the extent of the law. Our liability is limited to foreseeable and typical damages unless resulting from deliberate and malicious action or from gross negligence on our part or the part of our employees or agents in delaying performance of the contract.

3.4. Should a delay in performance be caused by ourselves, our employees or agents result in breach or damage to a significant contract clause we are then liable according to the law and to the extent of foreseeable and typical damages.

Further liability is excluded. Consequential loss is specifically declined to the extent which this is legally possible. The legal rights of the buyer to claim damages for breach or delay are unaffected.

3.5. Partial deliveries and partial performance are always permitted unless such would constitute an unreasonable demand upon the buyer.

3.6. Default of Acceptance. Should the buyer fail to collect or accept the goods or services within 5 working days of these being made available and notification thereof being given to the same then we are within our rights to claim compensation for loss, damages, interest and any additional expenditure.

The same applies if the buyer infringes his duty to cooperate to complete the contract. The buyer makes himself liable to a claim of non - performance if he fails to collect or accept goods provided or notified as available.

4. Payment terms

4.1. All prices are EXW excluding packing and net, excluding VAT unless specifically otherwise stated. VAT is added to the invoice at the currently valid legal rate on the date of invoicing and is shown separately.

4.2. Prices given to private individuals include VAT.

4.3. Invoices are to be paid on the date specified without further deductions. No discount is given for prompt payment unless specifically agreed with an authorised officer of the company in writing.

4.4. Payment dates or payment terms indicated on our invoices and on other documents are the dates on which the funds due are to be available for our use. In the case of cheques or drafts, this is the date when such are cashed.

4.5. The buyer is only entitled to set off payments against claims when:

4.5.1. In the case of faulty goods, if such claim is undisputed or the claim is legally in force.

4.5.2. The claim results from the same contract.

4.5.3. Our agreement has been given in writing.

4.6. We are entitled to withhold deliveries of further goods if the buyer is in arrears for more than 5 working days or if we have notice or grounds to doubt the capacity or will of the buyer to effect payment. Such withholding of delivery of goods ordered does not change the obligation of the buyer to effect payment or to accept the withheld goods once released.

4.7. If the buyer is in arrears with payment for more than 5 days, we are entitled to make all outstanding invoices immediately due and to consider all existing payment dates and periods as invalid, so that these amounts are also immediately due and payable..

5. Passing of risk, transport and packaging

5.1 The transfer of risk takes place in accordance with INCOTERMS in their currently valid form and always applies ex warehouse (EXW), unless otherwise agreed in writing.

5.2 We do not take back transport and other packaging, with the exception of pallets. The buyer is responsible for the disposal of the packaging at his own expense.

5.3 We can organise the loading and dispatch of the goods for the buyer, but this will always be done without insurance cover, at the buyer's expense and risk.

5.4 If the buyer is informed of the availability of the goods and if, as a result, the collection or acceptance of the goods is delayed at the buyer's request or through his fault, we will in that case store the goods at the buyer's expense and risk. In this case, the notification of readiness for dispatch is given *ex æquo* with the dispatch and we are entitled to invoice the goods.

6. Retention of title

6.1 The delivered goods are subject to the reservation of title and remain our property until all outstanding claims, including invoices not yet due at the time of delivery, have been credited. If the purchaser acts in breach of contract, in particular (but not exclusively) in the event of delay or non-payment, for whatever reason, we are entitled to take back the goods after setting a reasonable deadline for payment of the amounts due. The return of the goods to a place of our choice shall be at the expense of the purchaser. The return of the goods shall be deemed to be a justified withdrawal from the contract. We are entitled to use the reserved goods after taking them back. After deducting a reasonable amount from the operating costs, the income from this shall be deducted from the sums owed by the purchaser.

6.2 The buyer is obliged to treat the goods subject to retention of title with care and to insure them adequately at his own expense against fire, theft and water damage at their replacement value.

6.3 The buyer is entitled to transfer and/or use the goods subject to retention of title in the ordinary course of business, as long as he is not in arrears with payment. Pledging or transfer by way of security is not permitted. As security, the purchaser hereby assigns to us already now all claims arising from the resale or any other legal grounds concerning the goods subject to retention of title. We revocably authorise the purchaser to collect the claims assigned to us for his own account and in his name. This collection authorisation can be revoked at any time if the purchaser does not properly fulfil his payment obligations. The purchaser is also not authorised to assign this claim for collection. The manufacturer's obligation to assert counterclaims in the amount of the claims directly for us as long as we have claims against the customer cannot be determined at the same time.

6.4 The customer must in any case carry out processing on our behalf or for the purpose of processing the goods subject to retention of title. If the goods subject to retention of title are processed together with other objects not belonging to us, we shall acquire co-ownership of the new object in proportion to the value of the goods subject to retention of title (final invoice amount including VAT plus transport and processing costs) to the other processed objects at the time of processing. The same applies to the new object resulting from the processing as to the reserved goods. If the reserved goods are inseparably mixed with other goods not belonging to us, we shall acquire the right to use the reserved goods in this case.

In this case, co-ownership of the new object shall be entitled to the proportion of the value of the reserved goods (final invoice amount including VAT plus transport and processing costs) to the other mixed objects at the time of mixing. If, as a result of the mixing, the goods of the purchaser are to be regarded as the main object, we and the purchaser agree that the purchaser transfers to us a proportional co-ownership of these goods. The buyer reserves the right of ownership or co-ownership of the goods.

6.5 In the event of access by third parties to the goods subject to retention of title, in particular in the event of attachment, the buyer must draw attention to our ownership and inform us immediately so

that we can enforce our ownership rights. The buyer is liable for the full amount of the payment and all judicial or extrajudicial costs.

6.6 We undertake to release the securities to which we are entitled to the extent that the realisable value of our securities exceeds the claims to be secured by more than 10 %; the choice of securities to be released is at our discretion.

7. Liability and security

7.1 The purchaser may only assert claims arising from defects, in particular but not exclusively with regard to the quantity or quality of the goods delivered, if he has duly fulfilled his obligations to inspect the goods and to make complaints in accordance with § 377 HGB (German Commercial Code). Complaints about missing or obvious defects must be made within three days of receipt of the goods.

7.2 If the goods for which we are responsible are defective, we may, at our discretion, exchange the delivered goods, reduce the purchase price (reduction), repair the delivered goods or withdraw from the contract. The purchaser must grant a reasonable period of time for this subsequent performance. We shall bear the costs necessary for the removal of the defect, provided that they are not increased by the fact that the object of the contract is located at a place other than the place of performance. If this subsequent performance proves unsuccessful, the purchaser may demand a reduction in the purchase price (abatement) or declare the contract dissolved. The rectification of defects shall be deemed to have failed after the second unsuccessful attempt, unless other attempts at rectification are appropriate and reasonable for the purchaser on the basis of the subject matter of the contract. The purchaser may only assert claims for damages due to defects if subsequent performance has failed in accordance with the following provisions. The purchaser's right to make further claims for damages in accordance with the following provisions remains unaffected.

7.3 In accordance with the statutory provisions, we are obliged to take back the new goods or reduce the purchase price (abatement), even without setting an otherwise necessary deadline, if the purchaser's customer as a consumer of the newly acquired movable item (purchase of consumer goods) was able to demand that the purchaser take back the goods or reduce the purchase price (abatement) due to a defect in the goods or if the purchaser is faced with the same demand for return due to a defect in the goods.

In addition, we are obliged to reimburse the buyer for all expenses, in particular transport, travel, labour and material costs, which the buyer has to bear in relation to the end consumer in the context of subsequent performance due to a defect in the goods at the time of the transfer of risk to the buyer. We exclude any liability if the buyer has not properly fulfilled his obligations to inspect the goods and make complaints in accordance with § 377 HGB (German Commercial Code).

7.4 We exclude the obligation according to § 7.3.

7.4.1 in the event of a defect in connection with a notification or other contractual agreement which does not originate from us

7.4.2. if the buyer has given the end user a special guarantee,

7.4.3. if the purchaser, due to legal regulations, does not
- even if he is obliged to exercise warranty rights vis-à-vis the end user or if he has not raised any objection to a claim made against him.

7.4.4. if the buyer has granted the end user guarantees that go beyond the legal provisions.

7.5 Warranty claims of the buyer shall become statute-barred one year after delivery of the goods or provision of the service, unless the damage is based on fraudulent intent, gross negligence or wilful misconduct.

7.6 In accordance with the statutory provisions, we shall be liable without limitation for injury to life, body or health resulting from intentional or grossly negligent breach of duty on our part, on the part of our legal representatives or vicarious agents. We shall be liable in accordance with the statutory provisions for damages not mentioned in sentence 1 which are based on an intentional or grossly negligent breach of contract on our part, on the part of our legal representatives or vicarious agents. In this case, however, liability for damages is limited to typical and foreseeable damage, unless we, our legal representatives or vicarious agents have acted intentionally. Insofar as we have assumed a guarantee for the quality of the goods or individual components thereof, we shall also be liable within the scope of this guarantee. We shall only be liable for damages which are based on the absence of the guaranteed quality but which are not directly recognisable on the goods if the risk of such damages is clearly covered by the quality guarantee.

7.7 We shall also be liable for damage caused by simple negligence insofar as this negligence relates to the violation of contractual obligations, the fulfilment of which is essential for the proper execution of the contract and which the contractual partner relies on and can rely on regularly (cardinal obligations); we shall only be liable insofar as this relates to typical and foreseeable damage in connection with the contract.

7.8 We exclude any further liability, irrespective of the legal nature of the claim asserted; this applies in particular if the purchaser asserts other claims, in particular claims for damages in tort or a claim for reimbursement of useless expenditure instead of performance. Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, collaborators, representatives and vicarious agents.

8. Place of performance, place of jurisdiction, applicable law

8.1 For deliveries and payments (including actions on cheques and bills of exchange) as well as for all disputes between us and the purchaser arising from concluded purchase contracts, the court at our registered office indicated on the delivery note shall have exclusive jurisdiction; this registered office shall also be the place of performance. However, we are entitled to sue the purchaser at his place of residence/seat.

8.2 The relationship between the contracting parties shall be governed exclusively by the law of the Federal Republic of Germany. We reject the application of the Uniform Law on the International Purchase of Goods and the Law on the Conclusion of Contracts for the International Purchase of Goods.

8.3 German is the language of negotiation for all matters in dispute.

- irrespective of the purchaser's domicile or our registered office.

In case of doubt, the original German version of these General Terms and Conditions shall be used as a reference.

8.4 All matters in dispute shall be decided by an arbitration court of the International Chamber of Commerce in Paris in accordance with its rules. The International Chamber of Commerce in Paris appoints at least one judge to the court of arbitration. The award rendered by the Arbitration Tribunal shall be final and binding on all parties to the Contract