

## perma-tec GmbH & Co. KG As of 01 March 2014

### 1. General

- 1.1. Only these general terms of sale shall apply to our deliveries and services. We recognize any divergent general terms of business of the customer or such terms that deviate from our own general terms of sale only insofar as these have been expressly agreed to by us in writing. They shall also have no effect even if we have not objected to them in a particular case.
- 1.2. The assignment of claims against us to third parties is excluded. Section 354 a of the German Commercial Code (HGB) shall remain unaffected hereby.
- 1.3. The sale, resale, and disposal of the deliveries and services, as well as any associated technology or documentation, may be subject to German, EU, or US export control law, and possibly the export control law of other countries. With the order, the customer declares conformity with these laws and regulations. The customer undertakes to obtain all approvals necessary for export and/or import.
- 1.4. Our General Terms of Sale and Delivery apply only to companies as per Section 310 Para. 1 of the German Civil Code (BGB).

### 2. Quotations/Scope of Delivery

- 2.1. Our quotations are non-binding. An order placed on the basis of our quotation shall not take effect until we confirm or execute the order.
- 2.2. There shall be no verbal subsidiary agreements. Subsidiary agreements and subsequent changes require our express written approval. This also applies to assurances and subsequent contract changes.
- 2.3. Deviations from product details are permitted insofar as they are not relevant for proper intended usage.
- 2.4. We reserve the right of ownership and copyright on illustrations, drawings, calculations, and other documents. This also applies to written documents marked "confidential." Passing on such documents to third parties requires the customer to obtain our prior express written permission.

### 3. Information/Consultations

We provide information and application-related consultation to the best of our knowledge gained from our experience. However, all details and information relating to the suitability and use of our products are non-binding and do not relieve the customer of his responsibility to carry out his own checks. Item 10 of these Terms shall apply with respect to any liability.

### 4. Prices

- 4.1. Unless otherwise stated in the order confirmation, our prices apply "ex works", excluding packaging. This shall be invoiced separately.
- 4.2. All prices are net prices exclusive of VAT. This is shown separately in the invoice at the statutory rate applicable on the invoicing date.
- 4.3. We reserve the right to revise our prices accordingly if, after the contract has been concluded, cost reductions or cost increases arise—particularly on the basis of collective wage agreements or raw material and/or material price changes. The relevant evidence shall be provided to the customer on demand.

### 5. Payments

- 5.1. Payments are due in full within 30 days of the invoice date. The date on which the payment is received by us determines whether the payment has been made on time. A discount of 2% shall be granted on payments made within 8 days of the invoice date.
- 5.2. Bills of exchange and checks shall not be accepted as payment until they have cleared, and shall be accepted without an obligation for on-time presentation and protest, and only by special written agreement and if all redemption and discount charges are included.
- 5.3. Once payment is in arrears, we shall be entitled to demand interest on arrears at a rate of 8 percent above the base interest rate p. a., notwithstanding the possibility of claiming higher actual damages.
- 5.4. The withholding of payments on the grounds of counter-claims or offsetting with counter-claims by the customer shall be permissible only if these counter-claims are undisputed or legally recognized.
- 5.5. All our claims shall become due immediately in the event of delayed payment, bill protest, or the cessation of payment on the part of the customer, irrespective of the term of any received and credited bills of exchange. In all of the aforementioned cases, we shall also be entitled to make any outstanding deliveries only against prepayment or the provision of security and, if the prepayment or security is not forthcoming within two weeks, to withdraw from the contract without setting a new deadline. This shall not affect any further claims.
- 5.6. If there are justified grounds for doubting the buyer's ability to pay (particularly in the event of payment arrears or given negative credit report information) we may, while reserving the right to make further claims, demand prepayment or the provision of a security for further deliveries; we may also revoke periods of time granted for payment.

### 6. Delivery Time

- 6.1. Unless expressly agreed to the contrary, we deliver ex works.
- 6.2. Delivery deadlines and delivery periods that can be agreed as either binding or non-binding must be given in writing and are agreed only subject to us receiving the correct deliveries from our own suppliers on time.
- 6.3. The agreed delivery period shall be deemed honored if the object being delivered has left the works by the end of said period, or notification has been given that it is ready for dispatch.
- 6.4. War, strikes, lock-outs, raw material or energy shortages, traffic problems and unavoidable operational interruptions, acts decreed by public authorities—including those that render the carrying-out of the affected business uneconomical on an ongoing basis for the foreseeable future—and all other cases of force majeure (including those affecting our own suppliers) shall relieve us of the obligation to deliver for the duration of the problem and to the extent of its effects. Such events shall entitle us to withdraw from the contract in whole or in part, without the buyer having the right to damages.
- 6.5. Part deliveries are permitted and must be paid according to terms, provided that the customer can be reasonably expected to accept them.

### 7. Transfer of Risk and Receipt of Dispatched Goods, Delayed Acceptance

- 7.1. Unless expressly agreed otherwise, dispatch and transport shall be at the customer's risk. The risk shall be transferred to the customer as soon as the consignment has been handed over to the person providing transport.
- 7.2. The buyer must lodge complaints about transport damage directly with the transport company within the stipulated period. It is up to the buyer to take out transport and other insurance policies.
- 7.3. If dispatch of the delivery is delayed for reasons attributable to the customer, the risk of accidental deterioration and accidental loss or destruction shall pass to the customer when notification of readiness for dispatch is issued. The customer shall pay storage costs arising after the risk is transferred. This shall not affect any further claims.

- 7.4. If the customer delays acceptance, we shall be entitled to demand recompense for the costs that we incur as a result. The risk of accidental deterioration and accidental loss or destruction shall pass to the customer when the acceptance delay arises.

- 7.5. The buyer must accept delivered items even if they display minor faults. This shall not affect his rights as outlined in Item 9 of these Terms.

### 8. Reservation of Ownership

- 8.1. All delivered goods shall remain our property (reserved goods) until all claims arising from the legal relationship on which the delivery is based, irrespective of their legal basis, have been fulfilled.
- 8.2. If the customer processes, combines, or mixes the reserved goods with other goods, we shall be entitled to joint ownership of the new item proportional to the invoiced value of the reserved goods against the value of the other goods used. If our ownership lapses as a result of processing, combining, or mixing, the customer shall at this point immediately transfer the ownership rights that he assumes with respect to the new stock or item proportional to the value of the reserved goods, and shall administer them free of charge on our behalf. The resulting joint ownership rights shall be regarded as reserved goods in accordance with Item 8.1.
- 8.3. The customer shall be entitled to further process the reserved goods, to combine or mix them with other items, and to resell them only as part of his legitimate business activities and as long as he is not in arrears. Any other form of disposal of the reserved goods is not allowed. We must be notified immediately of any third-party levies of execution or other access rights to the reserved goods. All intervention costs shall be at the customer's expense if they cannot be collected from the third party. If the customer grants his buyer a deferral on the payment of the purchase price, he must reserve ownership of the reserved goods with respect to his buyer under the same terms as those under which we reserved ownership when the reserved goods were delivered. Otherwise, the customer shall not be authorized to resell the goods.
- 8.4. The customer's claims arising from the resale of the reserved goods shall hereby be assigned to us immediately. They provide security to the same extent as the reserved goods. The customer shall be entitled and empowered to resell only if it has been ensured that his resulting receivables are transferred to us.
- 8.5. If the customer sells, for a total price, the reserved goods together with other goods not supplied by us, the claim arising from the sale shall be assigned to the amount of the invoiced value of our respective reserved goods sold.
- 8.6. The customer is authorized to collect the claims assigned to us until such time as we rescind this authorization. We shall be entitled to rescind this authorization if the customer does not properly fulfill his payment obligations arising from the business relationship with us. If the conditions for exercising our right to revoke authorization exist, the customer must immediately notify us on demand of the assigned claims and the associated debtors, give us all information necessary for collecting the claims, provide us with the associated documents, and notify the debtor of the assignment. We are ourselves also authorized to notify the debtor of the assignment.
- 8.7. If the value of the securities that exist for us exceeds the secured claims by more than thirty (30) percent in total, we shall—at the customer's request—be obligated to release securities of our choice.
- 8.8. When we claim reservation of ownership, this shall only be deemed to represent withdrawal from the contract if we expressly declare this in writing. The right of the customer to own the reserved goods shall lapse if he does not fulfill his obligations arising from this contract.

### 9. Liability for Defects

- 9.1. Warranty claims by the customer shall be conditional on the customer having properly fulfilled his inspection and defect notification obligations as defined in Section 377 of the German Commercial Code (HGB).
- 9.2. If the purchased item is defective, we shall have the option of post-delivery fulfillment by either remedying the defect or supplying a new, defect-free item. In the case of repairs or a replacement delivery, we shall be obligated to cover all costs arising in conjunction with the post-delivery fulfillment, in particular transport, travel, labor, and material costs, insofar as these costs are not increased as a result of the purchased item being delivered to a location other than the place of fulfillment.
- 9.3. We shall be liable in accordance with the provisions of the law if the customer makes claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents.
- 9.4. In cases of slight negligence, we are only liable for the culpable infringement of essential contractual obligations. Essential contractual obligations are obligations that confer the corresponding rights to the contractual parties in accordance with the contract's content and purpose, in particular obligations whose fulfillment is prerequisite for the proper execution of the contract and on which the contractual parties regularly rely and are entitled to rely on at all times. In such instances, our liability for damages shall be limited to the foreseeable damages that typically occur.
- 9.5. If the customer is entitled to compensation for the damage instead of performance, our liability is still limited as outlined under Item 9 of these Terms.
- 9.6. This shall not affect our liability for injury to life, limb, or health; this also applies to mandatory liability as defined under the Product Liability Act.
- 9.7. Liability shall be excluded unless stipulated otherwise in the above.
- 9.8. The statutory period of limitation for warranty claims is 12 months, calculated as from when the risk is transferred.

### 10. Joint and Several Liability

- 10.1. Liability for compensation additional to that provided for under Item 9 of these Terms—irrespective of the legal nature of the claim made—shall be excluded. This applies particularly to claims for damages arising from culpa in contrahendo, other infringements of obligations, or tortious claims for compensation for material damages as defined under Section 823 of the German Civil Code (BGB).
- 10.2. The limitation as defined under Item 10 Paragraph 1 shall also apply if, in lieu of claiming compensation for damages, the customer demands compensation for useless expenditures instead of performance.
- 10.3. If we are not liable for damages or if such liability is limited, the same shall also apply with respect to the personal liability for damages of our workers, employees, colleagues, representatives, and vicarious agents.

### 11. Place of Jurisdiction/Place of Fulfillment

- 11.1. The agreed place of jurisdiction is Würzburg. However, we shall also be entitled to initiate proceedings against the client at the courts responsible for his place of domicile.
- 11.2. The law of the Federal Republic of Germany shall apply. The UN Convention on Contracts for the International Sale of Goods shall not apply to these Terms.
- 11.3. Unless otherwise stated in the order confirmation, our place of business shall be the place of fulfillment.