

GENERAL TERMS OF SALES

1. General

Unless otherwise agreed in writing, these Terms and Conditions shall apply to all quotations, orders and contracts between P.N. ERICHSEN A/S ("PNE") and any Purchaser of the goods ("the Buyer").

All quotations shall be subject unsold.

The sales contract shall be formed on the acceptance of the buyers order by the issuing of an order confirmation from PNE. By accepting the order confirmation the Buyer agrees that these terms and conditions constitute the contract between the Buyer and PNE.

2. Order Confirmation

As a company policy all customers are subject to credit insurance and order confirmations are conditional on credit accreditation/insurance. In the event that PNE's order confirmation deviates from the Buyer's order by way of any supplementary quantities, limitations or reservations and the Buyer refuses to accept such variations, the Buyer shall notify PNE thereof in writing within one week. If he fails to do so, PNE's order confirmation shall be controlling for all purposes.

3. Terms of Delivery

Terms of delivery are EXW our warehouse in Odense, Denmark (Incoterms 2010) - or according to quotation.

Delivery times are based on the assumption that all technical specifications and data as well as the Buyer's wishes have been clarified at the time of the Buyer making out the order and the assumption that PNE will receive materials from its sub-contractors in due time.

PNE makes reservations for any delays due to lack of conformity with these assumptions.

4. Prices

Except where fixed prices have been agreed upon in writing, all prices are EXW Odense (Incoterms 2010) exclusive of VAT packing and carriage costs.

Prices quoted shall not be considered fixed and firm unless otherwise agreed and confirmed in writing. Prices quoted will be subject to any changes in the cost to PNE of purchasing the goods, or to fluctuations in currency exchange rates between the date of the order and the date of delivery of the goods.

5. Payment

Payment is due immediately on invoice due date unless otherwise agreed in writing. PNE reserves the right to charge interest on all overdue accounts at the rate of 2% per calendar month counting from the due date until payment is effected - minimum DKK 75,00.

PNE reserves the right to fix the amount of any credit limit for the Buyer.

In the event that a delivery is prevented due to circumstances for which the Buyer is responsible, including the Buyer's wish to change specifications after the date of order, the Buyer shall nevertheless settle all payments in keeping with the original agreement.

The Buyer shall not be entitled to withhold any payments by reason of any counterclaims which have not been acknowledged in writing by PNE.

6. Force Majeure

PNE shall not be under any liability of any kind for non-performance in whole or in part of its obligations due to causes beyond the reasonable control of PNE or of PNE's suppliers, including strikes and lockout, labor disputes, fire, explosion, natural disasters, epidemics, working difficulties, operational breakdowns, war, riots, mobilization, government measures, sequestration, currency restrictions, shortage of means of transport, general shortage of goods, restrictions of power, environmental measures of defects and shortcomings or delays attributable due to one or more of the aforesaid circumstances.

If PNE is prevented from fulfilling the agreement by permanent or temporary force majeure, PNE shall be entitled to dissolve the agreement in full or in part or to suspend the further performance of the agreement without any obligation to pay compensation of damages, whereas delays be reason of the aforesaid circumstances shall only entitle the Buyer to cancel in the event that the delay exceeds six month.

Within the said time limit of six month, the Buyer shall only be entitled to cancel following a separate agreement with PNE and on condition that PNE's sub-contractor(s) has/have granted his/their acceptance.

7. Cancellation

In the event of material delay on the part of PNE that is not covered by force majeure, the Buyer shall be entitled to rescind the agreement in keeping with the general rules of Danish law. Notwithstanding the Buyer being to rescind the agreement, he shall have no other remedies in this unless the Buyer proves that the delay is due to gross negligence on the part of PNE. Hence, PNE shall not be liable for any direct loss or operating loss, loss of profit, loss of earnings or any other indirect loss or consequential loss.

The Buyer shall indemnify PNE against all loss or expense from cancellation or other breach of the contract by The Buyer.

If The Buyer commits any breach of the contract or becomes insolvent PNE shall have the right to terminate the contract or any part of it at, and/or to withhold delivery of goods and demand payment for all goods supplied or work in progress on goods intended for The Buyer.

8. Claims

PNE should not be liable for any claim in respect of goods alleged to be defective unless a claim is made in writing to PNE within 14 days of delivery and any allegedly defective goods are returned to PNE for inspection, unless otherwise agreed between The Buyer and PNE. In all other cases, the Buyer has forfeited his rights to invoke them at a later date.

PNE should not be liable for any claims for loss or damage to the goods whilst in transit unless the goods were then at the risk of PNE and the claim is made in writing to PNE immediately on receipt of the damaged goods or in the case of suspected loss within a period of seven days from the time when the goods should have been delivered.

9. Warranty

PNE warrants that the goods supplied correspond to those itemized in the order confirmation, but PNE undertakes no further obligations over and above this warranty, nor for the goods being fit for the Buyer's intended purposes, including in the event that the goods have been resold by the Buyer.

PNE will extend to the buyer the warranty as provided by the original manufacturer. The length in time of this warranty will be as contained in the original manufacturer's warranty.

Where goods supplied by PNE are proved to be defective solely due to defective materials or defective workmanship then PNE may at its discretion arrange to

- 1) repair such goods or*
- 2) replace such goods or*
- 3) allow The Buyer a reasonable credit in respect of such goods.*

The warranty is invalidated where there has been misuse of or tampering of the goods, or the goods have not been used for the purpose for which they were intended, or in the service conditions indicated at the time of purchase.

The Buyer warrants that he has disclosed to PNE in writing all matters which may affect the fitness for purpose of the goods supplied.

10. Liability

A) General

Notwithstanding the following provisions and any substantiated negligence, except from instances of gross negligence on the part of PNE, PNE shall in no event be liable for operational loss, loss of profit or any other indirect loss or consequential loss of whatsoever nature, no matter whether the claim for liability is based on ordinary rules of compensation or on any other basis.

B) Liability for Lack Conformity of the Goods

With respect to lack of conformity in due time and within one month after delivery of the goods, PNE undertakes – at its option –

(a) to remedy the lack of conformity of the goods

(b) to deliver goods in replacement of any non-conforming goods – and in that event the Buyer shall not be entitled to make any other claims based on lack of conformity

(c) to credit the Buyer with the amount payable for the non-conforming goods returned at PNE's request for the Buyer's account

(d) to grant the Buyer a pro rata reduction of the purchase price for the goods.

In claiming lack of conformity, the Buyer shall state the number and date of invoice. On request, defective parts shall be returned carriage paid to PNE.

In the event that the Buyer wishes to claim lack of conformity of the goods, he shall moreover complain thereof forthwith and in writing, and at any rate not later than 14 days after receipt of the goods. In the event that the Buyer fails to give such notification, irrespective of whether he has or should have discovered the lack of conformity, he will lose the right to invoke lack of conformity of the goods at any later date.

Over and above the aforesaid obligations, PNE shall not be liable for lack of conformity after the risk for the goods has passed to the Buyer, notwithstanding the said lack of conformity being attributable to causes existing prior to the time when the risk passes to the Buyer and notwithstanding any negligence that might be proved to be attributable to PNE.

The Buyer's claims on the basis of demonstrated lack of conformity cannot be assigned to any third party without the written consent of PNE.

PNE shall not be liable for lack of conformity attributable to incorrect use, transportation, storage, mounting or other negligence on the part of parties other than PNE, and extraordinary wear and tear.

C) Product Liability vis-à-vis the Buyer

In cases where, by their nature, the goods are ordinarily intended for commercial use and are used by the injured party mainly in keeping with such intended purpose, PNE shall be liable for a period of one year only, counting from the date of delivery, for damage to real property or movables caused by the goods.

PNE shall only be liable for such damage if it can be proved that the injury or damage is due to negligence or omission on the part of PNE or its employees, and where PNE is held liable by a court ruling.

PNE shall however in no circumstance be liable for operational loss, loss of profit, loss of earnings or any other indirect loss or consequential loss.

In the event of damage to real property or movables, including products made by the Buyer, PNE's liability is limited to DKK 1 million. PNE's liability does not extend to damage to the product causing the damage.

PNE shall be liable for injury caused by commercial as well as non-commercial use of the goods in keeping with the Danish legislation on product liability in force at the time in question.

D) Product Liability vis-à-vis Third Parties

In cases where, by their nature, the goods are ordinarily intended for commercial use, and PNE is held liable for product liability towards a third party by reason of the Buyer's use of such goods, including their resale, the following provisions shall apply with respect to damage to property.

In the event that the Buyer has been negligent, PNE shall have a right of recourse against the Buyer according to the degree of liability attributable to the Buyer. In all circumstances and notwithstanding any negligence on the part of PNE, the Buyer shall indemnify PNE to the extent that PNE's liability towards third parties the limitations and rules set out in above.

In the event of damage to property, where the goods are not intended for commercial use, and in the event of injury, and where PNE is held liable towards a third party by reason of the Buyer's use of such goods, including resale of the goods, PNE shall have a right of recourse against the Buyer to the extent that such damage or injury is attributable to negligence on the part of the Buyer.

In the event that the damage or injury is not attributable to negligence on the part of the Buyer, PNE shall be liable in keeping with the Danish legislation on product liability in force at the time in question.

In cases where PNE is liable under the Danish legislation on product liability in force at the time in question, it is expressly understood that liability does not extend to system or development damage, and that the general rules of Danish law on compensation, including the provisions on limitation of liability for compensation shall apply alongside with these provisions.

11. The Buyer's obligations

In his use of the goods, including resale, The Buyer shall prudently use/market such goods and to the extent possible take such measures (including the issuing of instructions and warnings to joint contractors and subsequent levels of distribution) which can safeguard the Buyer as well as PNE from incurring product liability. With respect to the provisions on product liability towards third parties referred to above, the Buyer's violation of this provision shall be deemed to constitute an act for which he incurs liability on an equal footing with any other negligence on the part of the Buyer.

Use and application – including resale – of the goods shall thus be at the exclusive risk of the Buyer. Any information furnished by PNE in catalogues, technical data sheets and the like concerning specifications and the like shall be understood as a guide only and can in no circumstances be claimed to constitute the basis for liability on the part of PNE, whether in whole or in part, nor shall they release the Buyer from making any necessary examinations, tests, etc. on his own initiative. The uncertainty prevailing at all times should be added to all absolute values indicated.

12. Disputes

Any dispute arising between the parties, including but not limited to disputes regarding the interpretation or validity of these Terms and Conditions, or any dispute arising between the parties by reason of PNE's quotation/order or in connection with any supply from PNE to the Buyer shall be settled with final effect according to Danish law. The parties have agreed that the Maritime and Commercial Court of Copenhagen shall be the exclusive venue.