

General Terms and Conditions (General Terms and Conditions of Sale, Delivery and Payment)

§ 1 Scope; General

1. Our General Terms and Conditions apply exclusively. Any terms and conditions of sale of the customer conflicting with or deviating from our Terms and conditions shall not apply, even if we do not expressly contradict to these. Our General Terms and Conditions shall also apply, if we make deliveries to the Customer without reservation, with knowledge of the Customer's conditions which are inconsistent with or deviate from our General Terms and Conditions.

2. If our General Terms and Conditions have not been received by an entrepreneur together with the offer or if they have not been submitted to him on another occasion, they will be applied within the scope that he knew or should have known these from an earlier business relationship.

3. If our General Terms and Conditions have not been received by an entrepreneur together with the offer or if they have not been submitted to him on another occasion, they will also be applied without prejudice to Para. 2, if we pointed out the applicability of our General Terms and Conditions when the contract was concluded and the Customer did not object immediately.

4. All agreements which are concluded between us and the Customer for the purpose of the execution of this agreement shall be set out in this agreement in writing.

§ 2 Offer and Acceptance

1. The Customer's order constitutes a binding offer. We may, at our option, accept this offer within 2 weeks by sending an order confirmation or by sending the ordered goods to the Customer within that period.

2. All technical drafts, sketches, dimensions and prices, also those contained in leaflets and brochures, as well as any other technical information and drawings provided to the Customer shall be without obligation and shall become binding only after our written confirmation towards the Customer.

3. The information contained in our printed matters, such as dimensions, weights, information relating to the use and handling of materials shall in no case be deemed as guaranteed properties of our products or warranties. They are subject to being modified due to technical reasons and to mistakes with the exclusion of any liability for compensation.

4. Modifications to the goods regarding their construction and design shall be accepted by the Customer as far as such modifications serve for taking account of technical progress or have been considered as necessary for technical reasons or become mandatory due to official regulations, unless they are deemed as unacceptable for the Customer, taking account of the interests of the same.

§ 3 Prices

1. Unless otherwise agreed, our prices apply ex works, including loading in our works, however excluding packaging. All our prices are to be understood plus VAT at the statutory rate applicable at the time.

2. For agreements with an agreed delivery period of more than 2 months we shall reserve the right to increase our prices according to the cost increases occurred, if the price determinants have changed, in particular if such cost increases are a consequence of collective agreements and increased material prices. If the increase exceeds 5% of the agreed price, the Customer is entitled to withdraw from the contract.

3. The Customer is only entitled to set-off, if his counterclaims have been legally established, are undisputed and have been recognized by us.

§ 4 Terms of Payment

1. Our invoices are payable cash strictly net within 30 days from the date of invoice, unless agreed otherwise in a separate contract.

2. For domestic transactions only:
Invoices for repair work and spare parts and invoices for other services to Customers having their registered office or branch office in Germany

are payable without deduction of cash discount within 10 days from the date of invoice.

Returns for repair within Germany and small packages within Germany will, as a matter of principle, be made cash on delivery.

3. Payments by bill of exchange are subject to our consent. We shall reserve the right to reject bills of exchange. In case we accept the bill, any discount charges are paid by the Customer.

4. In the event that the Customer should be in default of payment we shall be entitled to request default interest. In the event that the Customer is a consumer the annual default interest rate is five percentage points above the statutory rate applicable,. In the event the Customer is not a consumer the annual default interest rate is eight percentage points above the statutory rate applicable, however at least the borrowing rate according to customary banking standards. If we can prove any further-reaching damage due to default, we are entitled to claim such damage.

§ 5 Delivery, Term of Delivery, Transfer of Risk

1. On conclusion of the contract the Customer may issue instructions concerning the method of dispatch. Unless instructed otherwise we shall effect delivery via forwarding agent, parcel service or via mail or rail for the account of the Customer.

2. All deliveries shall take place at the risk of the Customer as soon as the goods have left our premises. This shall also apply for shipments free domicile. If transport is made with our own means of transport, any risk is transferred to the Customer as soon as the goods have left our premises. If requested by the Customer the Seller may insure the shipment at the Customer's cost against theft, breakage, transport, fire and water damages as well as other insurable risks. In case goods are repurchased by us the Customer shall bear the risk until receipt of the goods on our premises. This shall not apply for a consumer who returns the goods to us while making use of his legal right to withdraw from the contract or return the goods.

If dispatch or delivery is delayed for reasons for which the Customer is responsible, or if the Customer has otherwise failed to accept the

supplies, risk will transfer to the Customer at the time of onset of the delay. At the Customer's request and cost we shall obtain any insurance requested by the Customer

3. The fulfilment of our delivery obligation is subject to the prompt and orderly fulfilment of the Customer's obligations.

4. The agreed term of delivery shall be reasonably extended, by 4 weeks at the most, in the event that unexpected circumstances arise which are beyond our control, e.g. war, civil unrest, plant closures by our suppliers, operational stoppages without fault, delays in the supply of essential materials, suppliers' failure to deliver goods within the agreed delivery deadlines and qualities, in so far as such obstacles demonstrably have a considerable influence on the delivery of the delivery item. This shall also apply if such circumstances occur at our suppliers or carriers. Neither shall we be held responsible for the aforementioned circumstances if they occur during an already existing delay. We shall inform the Customer immediately about the existence and the presumed duration of the delay. In the event that the delay in delivery exceeds 4 weeks without our fault, we are entitled to withdraw from the contract. In this case we shall immediately refund any already paid consideration, if any, to the Customer.

5. Partial deliveries shall be permissible. This shall not apply if any conflicting agreement has been made or if the partial delivery is deemed as unacceptable for the Customer after the interests of both sides have been reasonably considered. Call orders and specifications of individual partial deliveries should be made, if possible, in agreed intervals and for agreed quantities in due time to ensure correct delivery within the delivery terms agreed. If call-off or specification does not take place in good time, we shall be entitled, after having fixed a deadline to no avail, to withdraw from the contract

§ 6 Technical Acceptance

If the subject of the agreement also comprises the testing of the goods in accordance with specific regulations, the acceptance test will be performed on our premises. Unless agreed otherwise the Customer shall bear all costs of the acceptance

procedure, such as any material acceptance costs as well as the personal travel expenses incurred by the inspection representative.

§ 7 Defects, Subsequent Performance, Withdrawal

1. In so far as the Customer has ordered the supply of DIN-standardized goods the nature of the goods shall be conformant with the relevant DIN standards. For any complaints the applicable DIN tolerances shall apply. Dependent on the manufactures supplied deviations of up to 10% with regard to weights, pieces and dimensions are permissible. We cannot assume any liability for damage occurred for the following reasons: unsuitable or improper use, incorrect fitting or commissioning or repair on the part of the Customer or third parties, natural wear and tear, improper or careless handling.

2. If the purchase constitutes a business transaction for both parties, the Customer shall inspect the goods immediately after receipt thereof and, in case a defect is detected, inform the Seller within 7 working days. We shall not accept any return consignments without our prior consent.

3. In exclusion for all further claims we shall be liable for defective goods (e.g. malfunctioning or absence of warranted qualities) by remedy of the defect or replacement of the goods concerned (subsequent performance). If the Customer is an entrepreneur we can perform the subsequent performance, at our discretion, by remedy of the defect or replacement of the goods. In consideration of the defect, we are entitled to claim an appropriate portion of the price as a subsequent performance of the previous payment.

4. Should the subsequent performance fail, be impossible or have been rejected or has not been performed within an appropriate term or has not been acceptable for the Customer, the Customer shall be entitled to withdraw from the contract or to claim a reduction of the purchase price (reduction). § 8 (liability, damages) shall remain unaffected.

In the event of subsequent performance we shall be obliged to bear all the expenses that are

necessary for such subsequent performance, in particular transport, conveyance, labour and material costs, provided that those costs are not increased by the fact that the goods were brought to another location than the originally agreed place of delivery.

5. In case the customer has bought the good supplied not for private use but for commercial use or use in his independent business, the Customer may assert claims on account of a defect only within the period of one year from delivery of the goods.

6. If the Customer is an entrepreneur and if he, by way of a recourse, is entitled to claim compensation for his expenses in accordance with the statutory regulations § 478 Para. 2 BGB (= German civil code), we shall be obliged to compensate for the prime cost, however not for possible margins or other surcharges.

7. If the Customer is an entrepreneur he shall undertake not to extend the rights of his customer, in particular by warranties, beyond the legally guaranteed minimum rights in the event that the goods delivered by us are resold. In the event that the Customer has granted to his customer any rights exceeding the legally guaranteed minimum rights, he may not claim such rights to our disadvantage in case of recourse.

8. If the Customer is the final entrepreneur in the supply chain and if he has immediately resold the goods supplied to a consumer, he is obliged to promptly refer the consumer's complaint to us.

§ 8 Liability, Compensation for Damage

1. We shall assume unlimited liability for any personal damage (injury to life, body, health) for which we are responsible.

2. If we are in delay, in the event of minor negligence our liability shall be limited to an amount of 30 % of the foreseeable damage which is typical of the contract. Further-reaching claims for damages exist only if the delay is caused by intent or gross negligence.

3. Any claims asserted by the Customer beyond the warranty and damage claims expressly stated in this contract, on whatever legal grounds, in particular claims on the grounds of interruption of operations, lost profits, consequential damage due to defects, loss of savings, economic loss due to third party claims or other consequential damages shall be excluded insofar as mandatory liability is not given by virtue of the German product liability law or a warranty or in cases of intent, gross negligence, the absence of guaranteed features or a violation of significant contractual obligations.

Compensation for the infringement of a fundamental contractual duty is limited to damage that is typically predictable unless we have acted willfully or with gross negligence.

4. The aforementioned limitations of liability apply to the same extent for breaches of contractual duties committed by our legal representatives, employees, executives and vicarious agents.

5. No change of burden of proof to the disadvantage of the Customer is connected with the preceding provisions.

§ 9 Other Duties

1. Unless otherwise expressly agreed, we shall only be under the obligation to give technical instructions or advice regarding the use of the goods supplied insofar as this has been prescribed by law.

2. Without prejudice to Para. 1 we shall, at the request of the Customer, within reasonable limits make every effort to provide technical support and advice regarding the use of the goods supplied (voluntary support and instructions). Such voluntary support and instructions will be provided free of charge and we shall not assume any liability for such instructions or support or the results thereof.

§ 10 Right of Withdrawal due to Infringement

In the event of an infringement of a contractual obligation which is not based on the delivery of defective goods the Customer shall only be entitled to withdraw from the contract if we are responsible for the breach of duty. Any deviating

provisions stated in this contract shall remain unaffected.

§ 11 Retention of Title

1. We retain ownership of the supplied items until the purchase price has been paid in full.

If the Customer is an entrepreneur we shall remain owner of any and all supplied goods until all claims arising from the business relationship with the Customer are settled in full.

2. In the event of a conduct of the customer that is not in conformity with the contract, especially in the event of a delay in payment, we shall be entitled to take back, and the Customer shall be obliged to surrender, the article to be supplied after setting a period of grace.

3. The assertion of the retention of title or the seizure of the goods supplied by us shall not be deemed termination of the contract, except if regulations for the consumer credit apply or we have expressly declared this in writing.

4. The Customer shall be entitled to sell on the delivery items within the course of regular business; however, already now it assigns to us all receivables accruing to the Customer from the resale of the goods in the amount of the purchase price agreed between us and the Customer (including Value Added Tax), and in fact independently of whether the delivery items are sold on without or after further processing. The Customer shall be authorized to collect these receivables after they have been assigned. Our authorization to collect the receivables ourselves shall remain unaffected thereby; however, we undertake not to collect the receivables as long as the Customer complies with its payment obligations in an orderly manner and is not in arrears with payment. Should this, however, be the case, we can require that the Customer disclose the receivables assigned and their debtors, provide all details necessary for their collection, hand over the associated documentation and notify the debtor (third party) of the assignment.

5. Should the Customer fail to meet his obligations to pay, his authority for collection of assigned

claims will cease with immediate effect. The same applies to bill of exchange or cheque cases.

6. The processing or alteration of the goods by the Customer shall always be carried out for us. Should the delivery items be processed together with other items, not belonging to us, we shall acquire co-ownership in the new item in the proportion of the value of the delivery items to the other items processed at the time of processing

7. Should the delivery items be inseparably mixed with other items, not belonging to us, we shall acquire co-ownership in the new item in the proportion of the value of the delivery items to the other items mixed with the delivery items. The Customer shall look after the jointly owned property for us.

8. The Customer may neither pledge the delivery items nor assign them in order to secure the debts. In the event of distraint, as well as seizure or any other rights of disposal by third parties, the Customer is required to notify us thereof without delay and provide us with all information and documentation necessary to protect our rights. Any bailiff or third party is to be informed of our ownership.

9. Any costs incurred in preserving our rights to the goods in the event of attachments and seizures or other third party dispositions shall be borne by the Customer.

10. Upon request by the Customer we engage to release securities we are entitled to insofar as their value exceeds the claims from trade receivables, receivables from orders or replacement claims to be secured, insofar as such claims have not been settled yet, by more than 20%.

§ 12 Property Rights

1. Any drawings, samples, drafts and calculations as well as other documents provided by us to the Customer shall remain our intellectual property and therefore must neither be brought to the knowledge of nor transferred to third parties or competitors.

These documents must, neither in whole or in part, be reproduced, published, amended or used

for any other than the agreed purpose without our prior written consent.

2. If deliveries are made in accordance with drawings, models, samples or suchlike provided by the Customer or if for the purpose of delivery parts supplied by the Customer are used, the Customer shall ensure and guarantee that this does not infringe third party rights. In case of a claim by a third party on the grounds of infringement of industrial property rights, the Customer shall indemnify us against all third-party claims and reimburse all costs incurred and damage caused, including judicial costs, in connection therewith.

3. Should the goods ordered by the Customer be intended for foreign markets, the Customer shall ensure that no rights, in particular property rights of third parties, are infringed by marketing our parts on the foreign market. If claims are made by a third party against us for that reason, the Customer shall undertake to indemnify us against all third-party claims and reimburse all costs incurred and damage caused, including judicial costs, in connection therewith, unless we have caused this infringement of third party rights when delivering our goods due to intent or gross negligence.

4. Should the use of a drawing or other information provided by the Customer at a later point and/or during performance for any purpose other than the interest of the Customer lead to an infringement of the Customer's property rights, we shall only assume responsibility, if the Customer has informed us about the existence of such property rights in detail when he provided the drawings or gave the other information in question.

§ 13 Export and Export Control Rules

The Customer is informed that the export of products which are subject to the German Foreign Trade and Payments Act (AWG) or to the US export laws (embargo regulations) is only possible with the agreement of the competent authority. The Customer shall be responsible for compliance with the relevant regulations until the goods have reached the final consumer. The Customer shall in particular obtain any permits

required at his own cost and shall bear the risk in case such permits are not granted.

§ 14 Transfer of Rights

Any transfer of rights of the customer relating to the agreement concluded between us shall be excluded. § 354 a HGB (= German Commercial Code) remains unaffected.

§ 15 Place of Performance, Legal Venue

The place of performance is Fürth/Bavaria.

Fürth/Bavaria is deemed venue for courts of law for all registered businessmen and for persons who do not have a domestic place of jurisdiction, as well as for persons who moved their place of residence or usual abode to a foreign country or whose place of residence or usual abode is not known at the time that a suit is filed.

§ 16 Application of German Law

The contractual relationships shall be governed exclusively by the law of the Federal Republic of Germany whereby the UN Convention on Contracts for the International Sale of Goods is excluded.

§ 17 Contract Language

1. The language in this contract is German.
2. Any declarations given and agreements made by the contractual parties must be in German language.
3. These General Terms and Conditions of Sale, delivery and Payment have been made out in German and English language. In the event of conflict or other deviations between the two versions as well as in case of dispute regarding the interpretation of this contract the German version shall prevail.
4. We shall not assume any liability for misunderstandings or irritations resulting from misinterpretations of the Customer's orders and/or comments which were not made in German, unless the Customer can prove that such misunderstandings were caused by intent or gross negligence.

§ 18 Storage of Data

As far as personal data are stored or processed otherwise, we shall comply with the requirements of data protection laws. Customer data will be stored, in compliance with the requirements of data protection laws, to the extent which is necessary for the execution of the order and will be transferred, for the purpose of fulfilment of the contract, to the respective forwarding agent or the vicarious agent, who has been entrusted with the execution of the order.

§ 19 Miscellaneous

1. Collateral agreements must be made in written form.
2. Should one provision be or become ineffective, the validity of all other provisions shall remain unaffected.

PRÜFREX Innovative Power Products GmbH
 Egersdorfer Strasse 36, P.O.B 20, 90556
 Cadolzburg, Germany
 Phone +49/9103/7953-0, Fax +49/9103/795355

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