

**§ 1 Validity of the Terms and Conditions**

(1) The general terms and conditions listed below are the basis of all delivery contracts, services and offers. The customer (buyer / ordering party) also acknowledges our sales terms for all future business transactions with us as well as for himself as being binding. Even if they are not explicitly agreed upon again, and waives the assertion of own purchasing conditions, that neither become the subject matter of the contract through him remaining silent nor through the acceptance of deliveries and services. Our sales terms are also valid when we execute the delivery to the customer with no reservations in the knowledge of deviating terms and conditions of the ordering party.

(2) Deviations to the general terms and conditions of the contractual partners only become the subject matter of the contract if they are confirmed by us in writing. Our customers' terms and conditions contradicting these delivery and payment terms are only valid in case and in as far as their validity has been acknowledged by us explicitly in writing. Our remaining silent on the matter of our customers' contradictory terms and conditions – also in possible confirmation letters, order confirmations and similar explanations are in no way valid as consent or acknowledgement. Our delivery and payment terms in their respective version are valid as being acknowledged bindingly at the latest upon acceptance of our delivery by the customer. Our sales terms are also valid if we execute the delivery to the customers without reservations in the knowledge of deviating conditions by the ordering party.

(3) All agreements concluded between us and the customer with the purpose of executing the respective contract are recorded in this contract in writing

(4) Our sales terms are only valid for companies in terms of § 310 Section 1 BGB (German Civil Code).

**§ 2 Delivery and payment terms**

We deliver exclusively on the basis of our delivery and payment terms.

These are valid for the whole duration of the business relationships with the customers.

**1. Offer and delivery**

Our offers are made subject to change and are non-binding. When processing customer orders a difference is to be made between purchase contracts and procurement orders.

Purchase orders:

A binding contract materialises when Pegasus has confirmed in writing an order placed by the buyer or the goods has been dispatched or delivered to the customers.

This is only valid to the extent that this does not concern procurement orders. For goods marked with a „p“ the following specially described terms for procurement orders are valid. With the exception of these explicitly described special features for procurement orders all sales terms are valid for these orders just the same as for purchase contracts.

Procurement orders:

In the case of goods that are marked with the letter “p” on our offers or order confirmations, these are goods that we have to procure for the customer according to his order corresponding to our service offer and only for this customer. We endeavour with these orders on the basis of our special knowledge to procure the goods for the respective customer as quickly as possible and corresponding to his order. A binding commitment of delivery or also a liability or guarantee for the procurement is not assumed by Pegasus in the case of these orders. In the case of the procurement orders issued by the customer these are considered as offers by the customer in terms of § 145 BGB (German Civil Code). The customer is bound to the respective offer for a period of at least 2 weeks (from receipt of the order at Pegasus Components GmbH onwards). We retain the right during this period to accept the order or not. From the order being issued the contract either comes into being by means of a written confirmation of the delivery possibility or through the dispatch or delivery of the goods to the customer.

In any case we assume no procurement risk for these orders. If it appears to Pegasus Components GmbH that the procurement after a period of 2 weeks since receipt of the customer's offer is not possible within an appropriate period, Pegasus will notify the customer of this upon the request of the customer. In this case the customer is entitled and obliged to notify immediately whether and for how long he is still interested in further procurement attempts. Pegasus Components GmbH is

entitled after 2 weeks have elapsed since receipt of the customer's order to notify the customer that a procurement of the goods at the customer's conditions is not possible and is entitled to not accept the offer. If Pegasus Components GmbH confirms the delivery or procurement possibility, this is only done with the reservation of prompt and error-free and complete own delivery by the manufacturer or sub-supplier. A guarantee or a procurement risk is not assumed by Pegasus if the procurement order has in the meantime been confirmed by Pegasus.

The following terms are valid in turn for purchase contracts and procurement orders equally.

(1) If we are prevented from fulfilling the contract on time due to unforeseeable, unavoidable and exceptional procurement, manufacturing or delivery failures – due to us or our sub-suppliers, we are entitled to postpone the delivery and service by the period of the obstruction plus an appropriate start-up time without thereby breaching an essential contractual obligation.

(2) If it becomes impossible to fulfil the contract for the reason stated in paragraph (1) wholly or partially, we retain the right to withdraw wholly or partially from the contract due to the still unfulfilled part of the contract.

(3) Claims for damages by the customer in the cases listed in the above-mentioned paragraphs (1) and (2) are excluded provided we or our vicarious agents are not accused of intent, gross negligence or the breach of an essential contractual obligation.

(4) If the purchaser is in arrears with the payment of an earlier service, we are entitled to retain deliveries without being obliged to pay for damage resulting from this.

**2. Prices**

The prices are to be understood „ex works“ plus the legally valid VAT. For orders with an exchange rate risk we retain the right to adapt prices if on the day of invoicing an exchange rate deviation of +/- 3% of the sales price is on hand, providing nothing has been agreed to the contrary.

**3. Packaging and dispatch**

(1) The packaging is done according to specialist and standard factors. The buyer bears the packaging costs.

(2) The dispatch takes place according to our choice. The buyer bears the dispatch costs.

**4. Passing of risk**

(1) The risk passes to the buyer upon the goods leaving our warehouse. All consignments, including possible returns take place at the buyer's risk.

(2) Provided we are obliged to dispatch the goods, the goods will be insured by us against transport damage and loss at the buyer's risk, providing nothing has been agreed to the contrary.

**5. Returns**

All goods returned to us by the buyer must be sent back using an RMA number (Return Material Authorization) with prepaid freight. For this the buyer must obtain an RMA number from us in advance for each intended return delivery and to mark this clearly and visibly on the outside of the return goods package as well as on the freight papers. Return deliveries without RMA numbers cannot be processed by us and will be returned to the buyer at his expense.

**6. Payment**

(1) Providing nothing has been agreed to the contrary, our invoices after due for payment immediately after delivery without deductions. A discount agreement requires a special written agreement.

(2) If the customer gets into payment arrears, we are entitled in this case to charge default interest to the value of 8% over the basic interest rate. In the case of relevant proof higher default interest can also be asserted.

(3) We retain the right to decide on the receipt of bills of exchange and cheques from case to case.  
(4) If the customer does not meet with his payment obligations in accordance with the contract or if he ceases to make payments or if other circumstances become known to us that challenge the credit-worthiness of the customer, in this case we are entitled to make the whole remainder of the debt due, to demand payments in advance or security bonds.

(5) The customer is only entitled to offset, retain or reduce, even if claims or counter-claims are asserted, if the counter-claims have been recognised by declaratory judgement, are undisputed or have been acknowledged by us.

## 7. Reservation of title guarantee

(1) The goods remain our property up to the full payment of all claims from the deliveries, including incidental claims, claims for damages and cheque payments and bills of exchange.

(2) In the case of the customer acting contrary to the contract, in particular also in the case of payment default, we are entitled to take back the purchased goods. This taking back of goods does not represent a withdrawal from the contract apart from if a withdrawal was explicitly declared by us in writing. After the purchased goods have been taken back we are entitled to make use of the purchased goods. The proceeds of sale will be credited against the liabilities of the ordering party – whilst deducting appropriate costs for the utilisation.

(3) The customer is obliged to treat the purchased goods with reservation of title carefully. He is obliged to sufficiently insure the purchased goods with reservation of title at his own expense against fire, water and theft damage at a value that may not be lower than the agreed purchase price. In as far as care, maintenance, inspection work is necessary, the customer must perform this work at his own expense in good time and to bear the costs for this work.

(4) Processing or altering the purchased goods by the customer is always performed by us. If the purchased goods are processed with other objects not belonging to us, in this case we acquire the co-ownership of the new goods at a ratio of the value of the purchased goods (including VAT) to the other processed object at the time of processing. If the purchased goods are inseparably mixed with objects not belonging to us or blended or combined, we acquire the co-ownership in this case of the new object at a ratio of the value of the purchased goods (including VAT) to the other objects at the time of the mixing, admixing or combining respectively. If the mixing, admixing or combining in a way that the buyer's goods are to be seen as the main object, in this case it is valid as agreed that the buyer transfers proportionate co-ownership. The buyer keeps the co or sole-ownership of the newly developed object for us free of charge. For the new object developed through processing, mixing or combining the same applies as for the purchased goods with reservation of title. All safety obligations in view of the purchased goods remain with the customer, in the care of which the goods being purchased are. The customer alone is obliged to monitor the adherence to these obligations and to arrange the necessary measures at his own expense.

(5) The buyer may sell the conditional goods in a proper business enterprise, however only against immediate payment or under retention of title.

He is not entitled to other dispositions, in particular to transfers by way of security and to pledge.

(6) The buyer already assigns the amount to all secondary rights from his claims against us from the further sale of the conditional goods the amount, which corresponds to our invoice price including VAT. We accept the assignment.

(7) The buyer is entitled to collect the assigned claims.

An assignment or pledge of these claims is, however, only permissible with our prior written consent. The direct debit authorisation is excluded if the buyer gets into payment arrears, has applied for insolvency or settlement proceedings to be opened, a ceasing of payment or another reason is on hand which endangers the security interest of the seller. In this case the buyer must inform the debtors upon our request of the assignment in writing, to give us all information as well as submitting and sending documents. For this purpose the buyer must grant us access to these relevant documents if need be.

(8) If the circumstances stated in paragraph (7) sentence 3 are on hand, the buyer has to grant us access to the conditional goods still in his possession, send us an exact list of the goods, separate the goods and give them back to us.

(9) We undertake to release the securities we are entitled to upon the buyer's request to the extent that the realisable value of our securities exceeds the claims to be secured by more than 20 %. The selection of the securities to be released is incumbent on us.

(10) In the case of pledges or other encroachments by third parties the ordering party must notify us in writing immediately so that we can bring a suit according to § 771 ZPO (Code of Civil Procedure). Providing the third party is not in a position to reimburse us with the legal and exceptional costs, those to secure our ownership rights by obtaining legal advice and legal representation, in particular also a suit in accordance with § 771 ZPO (Code of Civil Procedure), the ordering party is liable for the costs incurred by us.

(11) If the buyer has sold the claim in the framework of real factoring, our claim is due for payment immediately and the buyer assigns to us the claim in its place against the factor and passes on his

sales proceeds immediately to us. We accept this assignment.

(12) The costs for the fulfilment of the above-mentioned obligations to cooperate upon pursuing all rights from the retention of title as well as all expenditure made with the purpose of maintaining and storing the goods shall be borne by the buyer.

## 8. Liability for Defects and Compensation for Damages

(1) Our goods shipments must be checked immediately after arrival by our customer.

Obvious and easily recognisable defects - immediate check

We refer clearly to the fact that the customer must check the goods immediately – within 5 workdays after delivery – for correct delivery and obvious and easily recognisable defects, also if a quick and simple examination is necessary. This also applies to shipments of goods which are sealed or heat-sealed. Obvious and easily recognisable defects must be reported to us in writing within 5 workdays after delivery, i.e. the notice of defects must be demonstrated to have been dispatched to us within the aforementioned deadline. The customer must prove the existence of the defect itself, the date of detection of the defect, the timeliness of the check for defects and the timely dispatch and arrival of the deficiency report. The onus of proof is on the customer.

No obvious defects and defects difficult to recognise - quickest possible check

Defects that are recognisable upon or after a check or test must be reported in writing after the quickest possible execution of such a check or test. The customer must have checks or tests of the goods performed immediately after arrival of the goods shipments and he must see to the speedy and uninterrupted execution of such checks or tests. Immediately after the termination or the tests a defect possibly appearing must be reported to us in writing. This deficiency report accompanied by a report of the check must be dispatched to our address at the latest 30 days after the delivery and arrive here promptly. In any case there can be no deviation to the deadline as stated in our contract documents

No obvious defects that could be recognised by an immediate check

No obvious defects that could not be recognised by a check or test of the goods performed as quickly as possible must be reported to us in writing after their detection, however, within 12 months at the latest after the delivery by us. This report must be dispatched to us within this deadline of 12 months and must also arrive at our address within this 12 months deadline.

The onus of proof is on the customer that all prerequisites according to the law or to our terms of sale have been fulfilled. This also applies especially to the existence of a defect itself, to the date of the detection of the defect, to the timeliness of the goods check and to the timely dispatch and arrival of the relevant report.

(2) Liabilities of checks, examinations and reprehensions according to Article 377 HGB (German Commercial Code) remain unaffected.

Moreover, we point out explicitly that the liabilities according to Article 377 HGB (German Commercial Code) must be observed and complied with additionally.

(3) Acceptance of the goods as delivered:

Thus any claims of defects presuppose that the liabilities of checks, examinations and reprehensions according to our terms of sale and Article 377 HGB (German Commercial Code) have been complied with correctly and in time. If the customer does not comply with the aforementioned obligations and liabilities or not in time, the goods are deemed accepted in the presence of all defects existing at the time of delivery and possibly appearing thereafter. All warranties and claims resulting from this will at any rate have become time-barred after 12 months from the delivery and can then no longer be enforced.

(4) Thorough examination before further processing:

In the case of all deliveries it must be absolutely considered that the goods, also after compliance with all obligations and liabilities as mentioned in 8 (2) and (3), must be examined for the properties and conditions according to the indications of the manufacturer before any further use, especially installation, modification, further processing, assembly, mixing and combining.

(5) With respect to the buyer of merchandise, principally only the product description of the manufacturer is considered as agreed upon as properties and conditions of the merchandise. Public statements, recommendations and advertisements of the manufacturer in this respect do not constitute a contractual indication of properties and conditions.

(6) If the buyer receives deficient assembly instructions, we are only obligated to request the manufacturer to submit assembly instructions free from any deficiencies and to remit to the buyer the assembly instructions submitted thereafter. We are also only obliged to do this if the deficiency of the assembly instructions prevents correct assembly.

(7) The buyer will not receive from us warranties in the legal sense. However, this does not apply to manufacture warranties.

(8) A buyer of merchandise will at first receive from us supplementary performance of our own choice by rectification of defects or additional delivery. In as much as we are obliged to remedy defects, we shall bear all expenditures required for such remedies, however, only up to the amount of the purchase price and in as far as these expenditures will not increase due to the fact that the purchased object has been taken to a place other than the place of fulfilment.

Supplementary performance in the form of rectification of defects or additional delivery: without a deficiency report having been submitted, a rectification of defects will be effected without any warranty. In the case of deficient rectification, the liabilities of checks, examinations and rephensions according to our terms of sale 8.(1) to (5) inclusive and according to Article 377 HGB (German Commercial Code) must also be complied with. All warranty rights, however, will become statute-barred after 12 months from the date of delivery. Beyond this period no warranty rights can be enforced any more.

(9) Indemnification:

The liability for indemnification is excluded. However, we are liable in the scope of the compelling indispensable legal stipulations in as far as the customer is entitled thereto and asserts verifiable claims for damages resulting from intent and gross negligence including intent and gross negligence on the part of our representatives and agents.

(10) Statute of limitation for warranties / indemnification owing to a deficiency and other indemnities:

The statute of limitation starts with the moment of the transfer of risks, thus normally when the goods are handed over to a transport person. The deadline for the statute of limitation is 12 months. In the case of a delivery regress according to Articles 478 and 479 BGB (German Civil Code) the statute of limitation deadline remains unaffected. If operation and maintenance instructions are not complied with, if modifications of the products are performed or parts are replaced, the liability for deficiencies will not apply any longer. Further liability, especially for damages not having been incurred by the delivered merchandise itself, is excluded insofar as no intent, gross negligence or the violation of an essential contractual obligation cannot be imputed to us or our agents.

(11) The return of the rejected goods must be effected either in the original packaging or in professional and commercially usual packaging.

(12) Special features for the delivery of used and old merchandise:

In case of used and old parts the following must be considered additionally: used goods and old components are subject to an exterior visual inspection. The customer is obliged to verify such components very thoroughly before further use. Pegasus Components GmbH does not provide any warranty for old and used parts. The higher risk involved with old and used parts must exclusively be borne by the customer, especially concerning their further processing. The obligations to check for and report defects as specified in the preceding Art. 8, Para. 1 to 11, moreover, apply here too. The onus of proof that all prerequisites according to the law or to our terms of sale exist is on the customer. This applies especially to the existence of the defect itself, the date the defect was detected, the timeliness of the check for defects and the timely dispatch and arrival of the deficiency report.

9. Prohibition set off and prohibition of right of retention

The buyer can only assert a right of retention if it is based on the same contractual relationship. Setting off by the buyer or the assertion of a right of retention is excluded, apart from if the counterclaim was to be undisputed, acknowledged by us or recognised by declaratory judgement.

10. Claims for damages due to non-fulfilment against our customers

If we are entitled to claims for damages against the customer due to non-fulfilment, the damage to be compensated amounts to 30% of the merchandise net value provided no higher or lower claim is proven.

11. Labelling goods, industrial property rights

(1) The buyer will inform us immediately and in writing if he is advised of an infringement of industrial property rights and copyrights regarding a product delivered by us. We alone are entitled and obliged to defend the buyer against claims made by the owner of such rights and to regulate these claims at our own expense providing they are based on the direct infringement of a product delivered by us. We will then basically procure the right for the buyer to use the product. Should this not be possible for us at economically appropriate conditions, we will amend or replace this product of our own choice to such an extent that the industrial property right is not infringed or take back the product and reimburse the purchase price minus an amount for the granted utilisation.

(2) In return the buyer will defend us or exempt us from all claims made by the owner of such rights existing against due to us having followed instructions by the buyer or the buyer amends the product or integrates it into a system.

12. Validity

The buyer acknowledges these delivery and payment terms with us also for all future business transactions as binding and waives the assertion of own terms of purchase that neither become the subject matter of the contract through our remaining silent or through the execution of our delivery or procurement.

13. Partial invalidity

Should individual provisions – regardless of for which reason – not be applicable, the effectiveness of the remaining provisions shall not be affected by this.

14. Court of jurisdiction and place of fulfilment

- (1) The court of jurisdiction for all disputes arising from the privity of contract is Munich.
- (2) Place of fulfilment is Munich

15. Applicable law

The legislation of the Federal Republic of Germany applies for the delivery and payment terms and the whole legal relationships between the parties in connection with our deliveries. The standard UN Convention on Contracts for the International Sale of Goods is not to be applied.