General Terms and Conditions of PEINE GmbH
Version: 01 April 2011

These General Terms and Conditions shall apply exclusively between business operators

§ 1 Place of Performance, Delivery and Receipt
1. Place of performance for all aspects of the delivery contract is the place of the trading establishment of the Seller.
2. The delivery of the goods occurs ex works (Germany). The Buyer bears the costs of shipment. The Buyer can choose the freight forwarder. The goods are to be sent without insurance. A delivery notice can be agreed upon.
3. In the case of delivery from external warehouse an additional fee for storage can be invoiced.
4. The Buyer bears costs of packaging for special packing.
5. Sorted partial shipments and partial shipments containing combinations for sales convenience must occur within close time periods and are to be notified in advance. Unsorted shipments are permissible only with consent of the Buyer.
6. If due to the fault of the Buyer, receipt does not occur on time, the Seller has the option, after setting a cure period of 12 days, either to issue an invoice for the amount due, to rescind the contract or to demand damage compensation.

§ 2 Legal Venue
The legal venue (including proceedings arising out of a bill of exchange or a cheque) shall be the registered office of PEINE GmbH, in Wilhelmshaven, Germany. PEINE GmbH shall be entitled, however, to bring suit against the Purchaser before a court located in the Purchaser's place of residence.

§ 3 Content of the Contract
1. The delivery of the goods will occur on named dates (business days or a particular calendar week). All sales are concluded only for particular quantities, articles, quality and set prices. Both parties are bound hereby. Commission transactions are not performed.
2. Continuing orders are permissible and must be limited for a period of time at the time of conclusion of the contract. The period of receipt may encompass 12 months at the most.

§ 4 Interruption of Delivery
1. In the case of force majeure, work disputes and other interruptions of business that are not due to fault, which last longer than a week or apparently wil last longer than a week's duration, the period of delivery and the period of receipt are extended without more for the period of delay, at the longest however for 5 weeks in addition to an extended period of delivery. The extension occurs only when the other party is given prompt notice of the reason for the delay as soon as it is foreseeable that the named period cannot be adhered to.
2. If the delivery or acceptance does not occur on a timely basis, the other contract party can rescind the contract. It must nevertheless provide written notice at least two weeks prior to exercising the right of rescission.
3. If the other contract party upon request is not informed promptly that a delivery or receipt did not occur on a timely basis and if the delay lasted longer than 5 weeks, the other contract party can rescind the contract immediately.
4. Damage compensation claims are excluded if the contract party has not fulfilled its duty under § 4(1)-(3).

§ 5 Extended Period of Delivery
1. After end of the period for delivery an extended period of delivery in the amount of 12 days occurs automatically without the need for a declaration. After expiration of the extended period of delivery, rescission is deemed to have occurred under exclusion of damage compensation claims.
Rescission under § 5(1), sentence 2 does not occur if the Buyer declares to the Seller during the extended period of delivery that it seeks performance of the contract. The Seller is nevertheless released from the delivery obligation if the Buyer, upon inquiry of the Seller, does not make a statement within the extended period of delivery as to whether it insists on performance of contract.
2. Transactions for fixed delivery dates are not entered into. If the parties expressly agree in a particular instance that the goods are intended for a particular occasion, a firm delivery date without extension period can be agreed upon. In case the delivery period is exceeded, the Buyer can demand reimbursement of special expenditures for the ordered goods, at the most nevertheless in the amount of the purchase price of the ordererd goods. Further claims are excluded. The Buyer can seek only reduction of price or rescission of contract in case of defects in the goods intended for a particular occasion.
3. If the Buyer wishes to claim damage compensation instead of performance, it must inform the Seller that it has a period of 4 weeks to complete performance and that otherwise upon expiration of this period it will reject performance. The period is calculated from the day on which the notice of the Buyer is sent by registered mail. This provision applies in the case of § 5(1), sentence 2, in place of the right of rescission stated there, only when this period of notice of the Buyer reaches the Seller within the extended period of delivery.
4. For ready-to-mail goods and NOS-goods – „Never-out-of-Stock" – the extended period of delivery amounts to 5 workdays. In the case of non-delivery, the Buyer is to be informed without delay. In other respects the provisions of § 5(1) and (3) apply.
5. Claims of the Buyer on account of late delivery made before expiration of the extended period of delivery are excluded.

§ 6 Notice of Defects
1. Notice of defects is to be sent to the Seller at the latest within 12 days after receipt of the goods.
2. After cutting or other processing of the delivered goods, any claim of apparent defect is excluded.
3. Minor, technically unavoidable deviations from quality, color, width, weight, outfittings or of design may not be claimed as defects. This applies also to deviations customary in the trade unless the Seller has assured delivery according to sample in writing.
4. In case of justified notice of defects the Seller has the right of repair or delivery of a replacement good free of defects within 12 days after receipt of the returned item. In this case the Seller bears the freight costs. If repair is not successful, the Buyer only has the right of reduction of the purchase price or rescission of the contract.
5. After expiration of the period provided in § 6(4) the Buyer can only obtain reduction of the purchase price or rescission of the contract.
6. The Buyer has to inform the Seller without delay of hidden defects after their discovery. The Buyer can on account of a timely notice of defect only obtain reduction of the purchase price or rescission of the contract.

§ 7 Payment
1. The invoice will be issued on the day of delivery or the day of availability of the goods. Postponement of maturity (valuation time) is in principle excluded.
2. Invoices are payable:
   1. with 4% rush discount within the 10th day after issuance of the invoice and shipment of the goods;
   2. with 2.25% discount from the 11th to the 30th day after issuance of invoice and shipment of the goods;
   3. net from the 31st to the 60th day after issuance of invoice and shipment of goods

From the 61st day delay occurs under § 286(2) Subpart 1 German Civil Code.
3. If in place of cash, check or transfer of funds a bill of exchange is accepted by the Seller, in cashing the bill of exchange after the net payment date of 61 days from issuance of invoice and shipment of goods, a premium of 1% of the bill of exchange sum will be calculated.
4. In place of the abovementioned provision can the following govern insofar as the Buyer is bound for at least 12 months:

Invoices from	To be paid with 4% discount on	To be paid with 2.25% discount on	To be paid net on
1st – 10th of the month	15th of the same month	5th of the next month	5th of the month following the next
11th – 20th of the month	25th of the same month	15th of the next month	15th of the month following the next
21st – end of the month	5th of the next month	25th of the next month	25th of the month following the next

For this procedure § 7(1)-(3) applies.

5. Notice of changes in this procedure are to be provided 3 months in advance.
6. Interest on prepayments will not be provided in any case.
7. Payments will be applied always to offset the oldest due accounts in addition to application to the delays interest due on such sums.
8. The postal receipt stamp determines the date of receipt of payment. In the case of bank transfer, the day preceding the credit of the bank of the Seller is deemed to the receipt of payment.

§ 8 Payment After Due Date
1. For payments after due date, interest at the rate of 8% above the then applicable basis rate will be calculated.
2. Before complete payment of due invoiced amounts including interest, the Seller is not obligated to make any further delivery from any current contract. The claim of delay damages is reserved.
3. In the case of delay in payment of the Buyer or in the case of threatened insolvency or other essential deterioration of assets of the Buyer, the Seller can demand, after providing a notice period of 12 days, payment in cash before delivery for still outstanding deliveries from any current contract or rescind the contract or demand damage compensation.

§ 9 Payment Methods
1. The offsetting and withholding of due invoiced amounts is only permissible for undisputed claims or those reduced to final judgment. This applies also in the case of cessation of payments by the Seller. Other deductions (for ex. Postage) are impermissible.
2. Bills of exchange, insofar as they are taken in payment, are accepted only against reimbursement of fees. Bills of exchange and accepted bills of exchange with a term of more than three months will not be accepted.

§ 10 Retention of Title
1. The goods remain the property of the Seller until the complete payment of all claims from delivery of goods from the entire business relationship, including side claims, damage compensation claims and cashing of checks and bills of exchange. The retention of title also remains where particular claims of the Seller have been incorporated in an outstanding invoice and the balance is reflected and acknowledged.
2. If the goods subject to retention of title have been connected to a new movable item, mixed or processed by the Buyer, this applies for the Seller without any obligation on it. Through the connection, mixing or processing the Buyer does not acquire ownership of the new thing under §§ 947 and following sections, German Civil Code. The Seller acquires co-ownership in the new thing in the case of connection, mixing or processing with things not belonging to the Seller in proportion to the outstanding invoiced value of the goods under retained title to the entire value.
3. Insofar as in the business relationship between the Seller and the Buyer a centralized authority is invoked that takes over delcredere liability, the Seller transfers with shipment of the goods the ownership to the centralized authority subject to the condition of payment of the purchase price by the central authority. The Buyer is relieved of payment liability only with payment by the central authority.
4. The Buyer is entitled to further sale or processing only with consideration of the following conditions.
5. The Buyer may sell or process the goods subject to retention of title only in the course of ordinary business and insofar as its asset standing does not significantly deteriorate.
6a. The Buyer assigns hereby the claim, with all related rights, from resale of the goods subject to retention of title – including any accounts receivable – to the Seller.
6b. If the goods are connected, mixed or processed and the Seller has obtained co-ownership in the amount of the outstanding invoiced value, it is entitled to any purchase claim for the goods in proportion to its rights.
6c. If the Buyer sells the claim within the scope of genuine factoring, the Buyer assigns the claim it has against the factor to the Seller and will send to the Seller its sales proceeds in proportion to the value of the rights of the Seller to the goods. The Buyer is obligated to disclose the assignment to the factor when payment on an invoice is more than 10 days overdue or when its assets' situation deteriorates significantly.
The Seller accepts this assignment.
7. The Buyer is entitled to collect the assigned claims insofar as it is in compliance with its payment obligations. The collection authorization ends with payment delay of the Buyer or in the case of significant deterioration of the assets of the Buyer. In such case the Seller is hereby authorized by the Buyer to informer customers of the assignment and to collect the claims itself.
The Buyer has to provide information that is necessary for collecting the assigned claims and for review of such information. In particular it has to hand over to the Seller on request an exact listing of the claims it has with the names and addresses of the customers, the amount of the particular claims, the date of invoice, and so forth..
8. If the value of the security held by the Seller for the entire claims by more than 10%, the Seller is obligated on request of the Buyer to release the security to such extent per its choice.
9. Using the goods subject to retention of title for a lien or as security is impermissible. The Seller is to be informed immediately of any lien seizures, with provision of information concerning the lien creditor.
10. If the Seller takes the delivered good back in exercise of its right of retention, contract rescission only exists where the Seller expressly declares it. The Seller can satisfy its claims by private sale.
11. The Buyer keeps the goods under retention of title for the Seller without cost. It has to insure them within the usual scope against common dangers such as for ex. fire, theft and water. The Buyer assigns hereby to the Seller its compensation rights, which it has as a result of damages of the aforementioned type, against insurance companies or other obligated parties in the amount of the invoiced value of the goods. The Seller accepts this assignment.
12. All claims as well as rights from retention of title in all the special forms set out in these Termsn and Conditions remain until complete satisfaction of any possible obligations (check/bill of exchange) that the Seller has incurred in the interest of the Buyer. The Buyer is in principle permitted in the case of sentence 1 to pursue factoring for its accounts receivable. Before entering any such conditional obligations it must nonetheless inform the Seller.

§ 11 Applicable Law
The law of the Federal Republic of Germany applies. The Treaty of the United Nations on Contracts for the International Sale of Goods from April 11, 1980 is excluded.