

PJ Diesel Engineering A/S – General Conditions

1 General

1.1 The following General Conditions are valid for all tenders and sales agreements unless otherwise expressly confirmed in writing by PJ Diesel Engineering A/S (hereinafter referred to as PJDE).

2 Tenders and Order Acknowledgements

2.1 Tenders are submitted subject to the goods being unsold, and become void if the customer has not accepted them within 14 days of the date of the tender. Accepted tenders are normally confirmed by PJDE by means of order acknowledgements. Possible objections from a customer concerning discrepancies in the order acknowledgement must be raised immediately upon receipt of the order acknowledgement.

2.2 Orders from customers are only binding for PJDE after a written order acknowledgement has been issued and only on the conditions stated in the order acknowledgement.

3 Specifications and Prices

3.1 All information on weight, dimensions, capacity, price, technical and other data stated in catalogues, prospectuses, circulars, advertisements, illustrated matter and price lists is to be considered approximate. Such information is only binding to the extent stated in the order acknowledgement or in other agreements expressly referring to such information.

3.2 Unless otherwise agreed between PJDE and the customer, all sales are made at the prices valid on the date of PJDE's tender or the date of PJDE's receipt of the customer's tender. All prices are excluding VAT or similar sales taxes which will be added to the purchase price and paid by the customer.

3.3 Unless otherwise agreed in writing, delivery is made "Ex-Works" in accordance with INCOTERMS 2010, but the delivery price is exclusive of packing, which will be charged extra.

4 Time of Delivery

4.1 The time of delivery or completion stated by PJDE is approximate unless PJDE has expressly guaranteed delivery or completion at a definite time. Such guaranteed delivery or completion at a definite time is subject to the customer's fulfilment in due time of his contractual obligations.

4.2 If a definite time of delivery or completion has been expressly agreed upon in writing, such time of delivery or completion is always stated with reservation for delays due to force majeure, including labour conflicts and other reasons beyond PJDE's control. The time of delivery or completion will be deferred, if necessary, for a period corresponding to the duration of such delay. Delivery or completion postponed for the reasons referred to here shall, in every respect, be considered as having been effectuated in due time.

4.3 If a delay in delivery or completion, caused by reasons as stated in 4.2, can be expected to last longer than 3 months, the customer, as well as PJDE, shall be entitled to cancel the agreement without paying compensation.

4.4 If the delay is caused by reasons other than force majeure, the customer is only entitled to cancel the agreement if the delay can be considered essential and if PJDE has not effectuated delivery 14 days at the latest after having received a written demand to this effect.

However, if the delay concerns a specially constructed and/or engineered product, the customer is only entitled to cancel the agreement if the delay can be considered essential and if PJDE has not effectuated delivery 30 days at the latest after having received a written demand to this effect.

4.5 In the event that the agreement is cancelled according to 4.3 or 4.4 above, PJDE shall only repay any payments made by the customer, if the customer returns the already delivered goods substantially in the condition and quantity in which they reached the customer.

4.6 Irrespective of whether the responsibility for the delay lies with PJDE or its subcontractors, the customer shall not have any other legal remedies than mentioned above in 4.1 – 4.5 due to the delay, and PJDE shall not have any liability to pay damages whatsoever due to the delay, hereunder no compensation for loss of earnings or time.

5 Terms of Payment

5.1 Unless otherwise expressly agreed in writing, based on an evaluation of the credit worthiness of the individual customer, payment shall be effectuated net cash upon receipt of the invoice.

5.2 If the dispatch of goods is postponed at the request of the customer, payment shall, however, be made 14 days at the latest after the customer has been informed that the goods are ready for dispatch.

5.3 If payment is not made when due – see 5.1 and 5.2 – interest will accrue on the overdue amount at 2 per cent per each month commenced.

5.4 The customer is not entitled to off-set payment against a claim which the customer considers to have against PJDE in respect of the consignment concerned or any other consignment.

5.5 In each case where some form of credit is granted, the sale will be considered as having been made with PJDE retaining the ownership until full payment has been effectuated. If the customer does not pay when due, PJDE is entitled to take back the goods without a court judgement in accordance with the valid rules of law on this point.

6 Technical Service

6.1 For the rendering of technical service, including advice, testing, supervision or the carrying out of repair or maintenance work, the following supplementary conditions shall apply.

6.2 Unless otherwise agreed between PJDE and the customer, payment for technical service is charged on a time basis, in accordance with PJDE's price list valid on the date of PJDE's receipt of the customer's technical service order or on the date of PJDE's tender for the execution of an order.

In addition to PJDE's current fees for technical service and waiting time, as well as employees' allowances in accordance with the Danish tax directive, the following expenses will be charged at net cost plus a 10% administration fee: travelling and living expenses as well as expenses for necessary telecommunications.

6.3 Unless otherwise agreed between PJDE and the customer, prices indicated in tenders, etc. for the execution of an order shall be considered as estimates only.

6.4 Unless otherwise agreed in writing, the execution of an order is subject to manual assistance being rendered by the engine room staff and subject to the availability of standard repair facilities on board.

6.5 It is the responsibility of the customer/the master of the ship that the engine room staff or other manpower made available by the customer complies with instructions and/or advice given by PJDE representatives.

7 Liability for Defects and Shortages

7.1 The customer shall have an obligation to inspect the goods. Goods delivered in error shall be returned unused in an undamaged condition so as to reach PJDE within one month of the date of the invoice. If the customer fails to notify PJDE within 14 days after the defects or shortages concerned has been or ought to have been discovered by the customer, the customer shall forfeit its right to make any claim in respect to the defects and/or shortages. In case of latent defects, including defects which ought not to have been observed, the customer furthermore forfeits its right to make any claim in respect to a defect, if the customer has not notified PJDE hereof within six (6) months from the date of completion of the negligent technical service job or two (2) years from the date of delivery of the defective goods.

7.2 In the event that goods delivered by PJDE are proved to be defective at the time of delivery and the notification time limit above in clause 7.1 is observed, PJDE undertakes to replace or repair the defective goods at PJDE's choice, provided that the goods have been operated under normal operating conditions in accordance with PJDE's instructions. If the notification time limit above in clause 7.1 is observed, PJDE furthermore undertakes in any North European port to render such technical service as is necessary to correct a technical service job proven to be defective at the time of completion due to negligence or lack of professional diligence at the part of PJDE.

7.3 If PJDE is unable to replace or repair the delivered goods or render such technical service as is necessary to correct work pursuant to 7.2 or if the costs in connection with such replacement or repair exceeds three (3) times the invoiced value of the defective goods or the fee payable for the defective technical service job, PJDE will assume a liability to pay damages for loss due to the defective goods and/or the defective technical service jobs in accordance with the normal Danish rules on liability for defects. However, this liability is limited as set forth below:

PJDE's liability due to defective goods and/or defective technical service jobs shall in no event exceed three (3) times the invoiced value of the defective goods or the fee payable for the defective technical service job, however the liability shall in no event exceed two (2) times invoiced value of the total delivery in which the defective goods and/or service job are included.

Finally, the liability shall in no event exceed DKK one (1) million per calendar year. PJDE shall in no event be liable as towards the customer for any indirect loss, including but not limited to loss of production, loss of profit or any other consequential economic loss.

7.4 PJDE's liability is limited to the above and thus does not cover, inter alia: wear, damage caused by carelessness or negligence by the customer or by personnel in the service of the customer, damage caused by material supplied by the customer himself, or damage caused during construction/ assembling carried out by the customer without the written approval of PJDE. PJDE reserves the right to examine the goods concerned in its own workshop before the question of liability is finally decided upon.

7.5 The obligation of PJDE to repair or replace defective goods pursuant to 7.2 shall be fulfilled by delivery ex works of the replaced or repaired goods. The forwarding and returning of the goods are for the customer's account and risk.

If, following an agreement with PJDE, a repair is carried out in a non-PJDE workshop, PJDE is only obliged to reimburse the repair costs with the amount it would have cost PJDE to carry out the repair in its own workshop. If the defective goods are made part of another product and the defective goods therefore by PJDE and the customer are deemed appropriately to be repaired at the place of this other product, the customer shall reimburse PJDE's repair costs exceeding the amount it would have cost PJDE to carry out the repair in its own workshop.

7.6 For repaired and reconditioned goods, PJDE undertakes the same liability as stated in 7.2 – 7.5, with the exception, however, that repaired and reconditioned goods will not be replaced by new parts.

7.7 Except as stipulated in 7.1 – 7.6 above, PJDE shall not be liable for defective goods supplied or technical service rendered. This limitation of PJDE's liability shall however not apply if PJDE has been guilty of gross misconduct.

8 Repair and Reconditioning

8.1 For goods which are sent to PJDE for repair, reconditioning, assembling, adaptation, or other processes, the forwarding to and from and the storage at PJDE's workshop shall be for the account and risk of the customer.

8.2 If, in the opinion of PJDE, any goods referred to 8.1 are not suitable for repair or reconditioning, they will be scrapped without charge to the customer as PJDE's examination costs will be considered to be covered by the scrap value of the goods. If the customer desires to have such unsuitable goods returned, this must be previously informed to PJDE in writing. Such goods will then be returned for the customer's account and risk, and PJDE's expenses for the examination of the goods will be charged to the customer.

9 Liability for Damage Caused by the Product (Product Liability)

9.1 PJDE assumes a liability to pay damages for loss and/or damage occurred on persons or other goods than the delivered goods in accordance with the normal Danish rules on product liability, however this liability is limited as set forth in the following.

9.2 PJDE shall under no circumstances be liable for any indirect loss, including but not limited to loss of production, loss of profit or any other consequential economic loss.

9.3 This clause 9.3 only applies to liability claims for loss or damage caused by the goods to property which the goods are made part of, mixed with or incorporated in, joint with, used for packing of or in any other way connected with, worked up with or used for working up of, used for production or working up of any kind of handling of. PJDE's liability for defective parts of any individual unit of goods relating to costs for sending out staff, recall, tracing, examination, analysis or transportation of the manufactured or processed object or the issue of notices relating to the same object is limited to an amount of five (5) times the invoiced value of the defective goods. PJDE's liability cannot exceed DKK 500,000 per purchase order confirmed by PJDE and PJDE's liability for such claims can furthermore not exceed DKK one (1) million per year. In case of claims made in consequence of more than one case of injury, damage or loss occasioned by the same liability entailing conduct and regarding more than one calendar year the claims mentioned in 9.3 cannot exceed DKK one (1) million.

9.4 The liability for loss or damages caused by a negligent technical service job is limited to the repair or replacement of the serviced component/-s causing such damages and loss only and is limited to a maximum amount of DKK two (2) million.

9.5 For other claims than mentioned in 9.2, 9.3 and 9.4 PJDE's liability for defective goods cannot exceed DKK three (3) million per purchase order confirmed by PJDE and can in no event exceed DKK six (6) million per year. In case of claims made in consequence of more than one case of injury, damage or loss occasioned by the same liability entailing conduct and regarding more than one calendar year the claims cannot exceed DKK six (6) million.

9.6 To the extent PJDE might incur product liability vis-à-vis any third party, the customer shall indemnify PJDE as far as PJDE's liability has been limited by 9.2 - 9.5.

9.7 The above limitations in PJDE's liability shall not apply where PJDE has been guilty of gross misconduct.

9.8 If a claim for loss or damage as described in this clause 9 is raised by a third party against either PJDE or the customer, such party shall forthwith notify the other party thereof.

10 Law and Disputes

10.1 PJDE tenders and all contracts with customers, including the present General Conditions, shall be interpreted according to Danish law (excluding CISG).

10.2 If a difference of opinion cannot be settled by the parties themselves, the dispute shall not be referred to a court of law, but shall be decided by arbitration in accordance with the rules of procedure of the Copenhagen Court of International Arbitration. The arbitration proceedings shall take place in Copenhagen.

10.3 The above clause 10.2 will not, however, prevent PJDE from choosing, at its own discretion, to bring an action against a customer in the ordinary courts of law having jurisdiction over such a case.

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