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Standard Sale Terms and Conditions

We confirm your order subject to the exclusive application of our general terms and conditions of sale.

1. Preamble

1. PEMTec SNC, 6, rue Jules Verne, F-57603 Forbach Cedex, France, ("the *seller*") is engaged as an engineering company that specializes in precise electrochemical metalworking.
2. These Standard Terms and Conditions for the Sale of Export Goods shall exclusively, apply, save as varied by express agreement accepted in writing by both parties.
3. The offer, order acknowledgment, order acceptance of sale of any products covered herein is conditioned upon the terms contained in this instrument. Any conditional or different terms proposed by the buyer are objected to and will not be binding upon the seller unless assented in writing by the seller.
4. These conditions shall govern any future individual contract of sale between the seller and the buyer to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the buyer.
5. This agreement supersedes and invalidates all other commitment and warranties relating to the subject matter hereof which may have been made by the parties either orally or in writing prior the date hereof, and which shall become null and void from the date of the conclusion of this agreement.

2. Contract Products and Obligations

1. No order submitted by the buyer shall be deemed to be accepted by the seller unless and until confirmed in writing by the seller or the seller's representative within 21 days after submittal.
2. The quantity, quality and description of and any specification for the Contract Products shall be those set out in the seller's quotation (if accepted by the buyer) or the buyer's order (if accepted by the seller). Any such specification, sales literature, quotation etc. shall be strictly confidential and must not be made available to third parties.
3. The seller shall not be liable for the Goods being fit for a particular purpose unless otherwise agreed upon, to which the buyer intends to put them.
4. The Seller is not obliged to deliver accessories not specified explicitly or to advise the Buyer.
5. The buyer shall be responsible for the seller for ensuring the accuracy of the terms of any order submitted by the buyer, and for giving the seller any necessary information relating to the Contract Products within a sufficient time to enable the seller to perform the contract in accordance with its terms.

6. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document of information issued by the seller shall be subject to correction without any liability on the part of the seller.
7. The seller reserves the right to make any changes in the specification of the Contract Products which are required to conform with any applicable statutory requirements or, where the Contract Products are to be supplied to the seller's specification, which do not materially affect their quality or performance. The seller reserves the right to improve or modify any of the products without prior notice, provided that such improvement or modification shall not affect the form and function of the product.

3. Delivery and Risk of Damage or Loss

1. Except as otherwise stated under the terms of any quotation, the seller shall deliver the goods "ex works", Incoterms 2010. "Ex Works" means that the seller delivers when it places the goods at the disposal of the buyer at the seller's premises. The seller does not need to load the goods on any collecting vehicle, nor does it need to clear the goods for export, where such clearance is applicable.
2. Risk of damage to or loss of the goods shall pass to the buyer in the case of goods to be delivered at the seller's premises („ex works“, Incoterms® 2010) at that time when the seller notifies the buyer that the goods are available for collection.
3. The Buyer undertakes to procure export, transit and import licences as well as all permits, approvals or consents required in connection with the export from the State of the Seller and importation into the country of use and any transport via third countries. The buyer bears the risk of a ban on export, transit or import of the object of purchase at the time of the conclusion of this contract. With regard to subsequent import bans, the buyer bears only the risk, if and insofar as such import ban was recognizable at the time of conclusion of the purchase contract with due care. In case of a dispute, the buyer must prove that he has carried out all suitable and necessary measures with due care. The Seller is entitled to avoid this Contract of Sale in whole or in part without compensation, if the required export, transit and import licences, permits, approvals or consents are not granted by the authorities.
4. The Seller agrees to use its best efforts to support the Buyer when obtaining an export, transit or import permit if required. The Seller does not guarantee that an export, transit or import permit will be granted. The Seller is not aware of any circumstances that would prevent the issuance of an export or import permit.
5. Without prejudice to its continuing legal rights, the Seller is entitled to suspend the performance of its obligations or to prevent the handing over of the Contract Products to the Buyer so long as there are grounds for concern that the Buyer may completely or partly fail to fulfil its obligations in accordance with this contract.
6. Delivery is conditioned upon timely and proper performance of all duties of the purchaser. Defences based on non-performance of the contract are reserved.

4. Delivery Date

1. Delivery shall be effected as stated under the terms of our quotation and - if agreed - after the Seller's receipt of the confirmation of Letter of Credit pursuant to Article 7 of these Standard Sale Terms and Conditions.
2. Time periods and dates for deliveries and services provided by the seller are only approximate, unless a fixed deadline or a fixed time period has been expressly agreed on. The observance of the delivery time is subject to obtaining supplies oneself correct and timely.
3. If the Seller has not delivered within the fixed period of time set forth in any quotation or if a fix time for delivery is mentioned in any quotation, any warranty rights and any damage

claim of the Purchaser for delay in performance require that the Purchaser has fixed a reasonable additional period of time for performance of the Seller's obligations and that the Seller has failed to deliver within such additional period.

4. Without prejudice to its continuing legal rights, the Seller is entitled to fulfil its obligations after the delivery time agreed upon, if it informs the Buyer that it will exceed the delivery time limit and of the time period for late performance.
5. If the Seller has failed to deliver within such additional period, the buyer shall be entitled, on giving to the seller within a reasonable time notice in writing, to claim as maximum a reduction of 0,5 % per week (and up to a maximum of 5%) of the price payable under the contract, unless it can be reasonably concluded from the circumstances of the particular case that the buyer has suffered no or fewer loss. This limit shall not apply if time is agreed to be of the essence or if the delay was caused gross negligently or intentionally by the seller, his agents or representatives or if there is any further breach of any essential contractual obligation.
6. If for any reason the seller fails within such additional time of effecting delivery, the buyer shall be entitled by notice in writing to the seller to fix a last deadline after the expiry of which the buyer shall be entitled to terminate the contract.
7. If for any reason the seller fails within such additional time of effecting delivery, the seller is entitled to cancel the contract in whole or in part and to reimburse the buyer for any consideration already paid to the seller, if non-delivery of the seller is caused by a non-timely self-delivery by the seller's supplier and that neither the seller nor any suppliers are at fault.
8. If the buyer fails to accept delivery on due date, he shall nevertheless make any payment conditional on delivery as if the goods had been delivered. The seller shall arrange for the storage of the goods at the risk and cost of the buyer. If required by the buyer the seller shall insure the goods at the cost of the buyer.
9. In case of default in acceptance or other breach of duties to cooperate by the purchaser the seller is entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the purchaser at the time of such default or breach of duty to cooperate.

5. Retention of title

1. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the buyer until the seller has received payment in full of the price of the Goods and all other Goods agreed to be sold by the seller to the buyer for which payment is then due.
2. After termination of the contract the seller shall have absolute authority to retake, sell or otherwise deal with or dispose of all or any part of the goods.
3. Until such time as the property in the Goods passes to the buyer, the buyer shall hold the Goods as the seller's fiduciary agent, and shall keep the Goods properly stored, protected and insured.
4. Until that time the buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the seller for the proceeds of sale or otherwise of the Goods including insurance proceeds, and shall keep all such proceeds separate from any moneys or properties of the buyer and third parties.
5. If third parties take up steps to pledge to otherwise dispose of the goods, the buyer shall immediately notify the seller in order to enable the seller to seek a court injunction in accordance with § 771 of the German Code of Civil Procedure. If the buyer fails to do so in due time he will be held liable for any damages caused.

6. The seller shall on demand of the buyer release any part of the collateral if the value of the collateral held in favour of the seller exceeds the value of the claims being secured. It is to the seller's decision to release those parts of the collateral suitable for him.

6. Price

1. The price of the goods shall be the seller's quoted price or, where no price has been quoted, the price listed in the seller's published price list current at the date of acceptance of the order.
2. The seller reserves the right, by giving notice to the buyer at any time before delivery, to increase the price of the goods to reflect an increase in the costs to the seller which is due to any external factor beyond the control of the seller (such as foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of materials or other costs of manufacture) or any change in delivery dates, and he will reduce the price if external costs (such as customs duties) vary or do no longer apply.
3. Except as otherwise stated under the terms of any quotation or in any price list of the seller, and unless otherwise agreed in writing between the buyer and the seller, all prices are given by the seller on an ex works basis, and where the seller agrees to deliver the Goods otherwise than at the seller's premises, the buyer shall be liable to pay the seller's charges for transport, packaging and insurance.
4. The price is exclusive of all levies, dues, taxes, especially applicable value added taxes and other duties and charges. Any costs, duties or charges, etc., which arise in connection with the export and import as well as the transit of the goods, has always be paid by the buyer.

7. Payment

1. Except as otherwise stated under the terms of any quotation the payment to be made by the Buyer is in any event due on the following conditions:
 - a. 40 % of the purchase price shall be due and payable upon conclusion of the contract.
 - b. Further 50 % of the purchase price shall be due and payable upon delivery.
 - c. The remaining 10 % of the purchase price shall be due and payable upon commissioning.
2. The due time for payment arises without any further pre-conditions. The buyer owes interest from the due date of the respective claim, a separate reminder is not required.
3. The payment to be made by the Buyer shall be effected by inter bank payment transaction only; no cheque or bill of exchange will be considered as fulfilment of the payment obligation. The payment is to be transferred in EURO-currency to the banking account of the seller without deduction and free of expenses and costs for the Seller. The buyer must send a copy of the transfer voucher or a comparable proof of the transfer on the transfer date to the buyer by regular mail, by e-mail or by fax.
4. If the parties agree, the buyer must deliver a letter of credit issued by his bank (or any bank acceptable to the seller). In this individual case it is assumed that an irrevocable and transferable letter of credit will be issued ten days after the conclusion of this contract and in accordance with the Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600. Alternatively, the buyer has the right to conclude a private credit insurance over the purchase price in favor of the seller. In this case, the insurance policy must be left to the seller within 10 days of the conclusion of the contract.
5. If the buyer fails of make any payment or in the event of any delay in payment on the due date then, without prejudice to any other right or remedy available to the seller, the seller shall at his discretion be entitled to: (a) cancel the contract or suspend any further deliveries to the purchaser; or (b) charge the buyer interest on the amount unpaid, at the

rate of 8 per cent per annum above the base interest rate from then being valid, until payment in full is made. The buyer shall be entitled to prove that the delay of payment caused no or little damage only.

6. Statutory rights of the Buyer to suspend payment and to raise defences are excluded except where despite written warning by the Buyer the Seller has committed a fundamental breach of its contractual obligations to deliver or transfer the title to the Contract Products, and has not offered any adequate assurance.

8. Avoidance by the Seller

Without prejudice to its continuing legal rights, the Seller is entitled to avoid this Contract of Sale without compensation

- a. if insolvency proceedings relating to the assets of the Buyer are applied for or commenced;
- b. if the Buyer does not open the agreed Letter of Credit properly or in time;
- c. if the Seller does not receive the price properly or in time;
- d. if required export, transit or import licences, permits, approvals or consents are not granted by the relevant authorities.

9. Non-conforming Contract Products

1. The Contract Products do not conform with this Contract of Sale if at the time the risk passes they are clearly different to the specifications laid down in the contract between seller and buyer, or in the absence of agreed specifications, the Contract Products are not fit for the purpose usual in Germany.
2. The seller shall not be liable for the Goods being fit for a particular purpose unless expressly otherwise agreed upon, to which the buyer intends to put them.
3. The Seller is not liable for the Contract Products complying with further reaching expectations of the Buyer or for their compliance with the legal requirements existing outside of Germany.

10. Warranty

1. Precondition for any warranty claim of the purchaser is the purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code). The buyer shall examine the Goods as required without undue delay, in the ordinary course of business latest within 7 days after delivery. The Buyer shall give notice of any lack of conformity with this Contract of Sale to the Seller without undue delay in writing, specifying the nature of the lack of conformity, in the ordinary course of business latest within 5 days after discovery.
2. Following due notice of lack of conformity with the contract, the Buyer can rely on the remedies provided for by the UN Sales Convention having regard to the terms laid down in these Standard Terms.
3. If the Purchaser fails to examine and notify the Seller thereof during that time pursuant to these provisions, the Seller shall no longer be liable for a lack of conformity of the Contract Products. This does not apply, if the Seller has fraudulently concealed the lack of conformity with the contract.
4. Where a lack of conformity is notified to the seller in accordance with these provisions, the seller shall be entitled at the seller's sole discretion to either replace the Goods free of charge or repair the goods. If the seller is neither ready nor able to either repair or replace

the goods the buyer shall be entitled at the buyer's sole discretion to claim for a reduction of price or the cancellation of the contract.

5. Without prejudice to comply with the respective applicable legal requirements, the Buyer is only entitled to declare this Contract of Sale avoided after he has notified the Seller in writing of his intention to do so and an additional period of time of reasonable length for performance has expired to no avail. The buyer is not entitled to declare this Contract of Sale avoided if only insignificant defects such as, for example, impairments of the purchased item in ancillary functions exist.
6. The Seller shall not be entitled to rely on the provisions of this section if (and only if) the Seller actually knew the relevant facts constituting the lack of conformity and failed to disclose them to the Purchaser.

11. Liability

1. In case of intent or gross negligence on our part or by our agents or assistants in performance we are liable according to the provisions of applicable law; the same applies in case of breach of fundamental contract obligations. To the extent the breach of contract is unintentionally our liability for damages shall be limited to the typically predictable damage.
2. Our liability for culpable damage to life, body or health as well as our liability under the Product Liability Act shall remain unaffected.
3. Any liability not expressly provided for above shall be disclaimed.
4. To the extent that the Seller's liability is excluded or limited, any recourse against the employees, servants, members of staff, representatives of the Seller and those employed by the Seller in the performance of its obligations is excluded.
5. The Seller is not liable for a failure to perform any of its obligations if the failure is due to impediments which occur, e. g. as a consequence of natural or political events, acts of state, shutdown of an establishment, blockade, closure of transport routes, boycott, embargo, effective exchange control regulations, industrial disputes, unpredictable strikes, sabotage, accidents or similar circumstances and which can not be controlled by the Seller with reasonable means.

12. Third Party Claims

1. The Seller shall be liable pursuant to Article 42 CISG for the absence of third party rights based on industrial or other intellectual property rights only with respect to any infringements in the Federal Republic of Germany. The Seller represents, however, that it is not aware (without having made any specific inquiry) of any infringements of such rights in other countries.
2. Claims of the buyer against the seller due to defects in title lapse within one year after delivery in accordance with Article 3 and 4 of these Standard Terms.
3. If the goods are to be manufactured or any process is to be applied to the goods by the seller in accordance with a specification submitted by the buyer, the buyer shall indemnify the seller against all loss, damages, costs and expenses awarded against or incurred by the seller in connection with or paid or agreed to be paid by the seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual rights of any other person which results from the seller's use of the buyer's specification.
4. Without prejudice to the Seller's continuing legal rights and waiving any defence of limitation the Buyer will indemnify the Seller without limit against any and all claims of third parties which are brought against the Seller on the grounds of product liability, to the extent that the claim is based on circumstances which were caused by the Buyer after risk passed.

13. Applicable law and jurisdiction

1. The legal relationship with the Buyer is governed by the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods (UN Sales Convention/CISG) in the English version. Where standard terms of business are used, the Incoterms 2010 of the International Chamber of Commerce and the provisions stipulated in this respect in this Contract of Sale apply.
2. The laws of the Federal Republic of Germany, excluding any conflict of laws rules, shall apply with respect to any matters not governed by such Convention. Other national law is not applicable.
3. Applicable commercial usage and / or practices must be expressly stipulated in writing. If no agreement has been reached, no commercial usage or practices is applicable between the parties.
4. Exclusive – also international – place of jurisdiction for all disputes arising out of or in connection with this contract shall be Saarbruecken, Germany. However, in all cases, we are also entitled to bring action at the place of performance of the delivery obligation pursuant to these General Terms and Conditions or pursuant to an individual agreement having higher priority or at the general place of jurisdiction of the seller. Higher-ranking statutory provisions, especially concerning exclusive jurisdictions, remain unaffected.

14. Miscellaneous

1. Statutory rights of the seller to set-off or to retain payment are excluded, except where the corresponding claim of the seller has either been finally adjudicated or recognized by us in writing.
2. This agreement shall not be assigned or transferred by either party except with the written consent of the other.
3. Each party shall be responsible for all its legal, accountancy or other costs and expenses incurred in the performance of its obligation hereunder.
4. The contract language is English. If this contract or other correspondence is available in other languages, these are only translations that are not of contractual quality, that are not binding and that must not to be used to interpret the will of the parties.
5. All communications, declarations, notices etc. are to be drawn up exclusively in the German or English language. Legally relevant declarations and statements of the seller in relation to the contract (eg setting of a deadline, reminder, cancellation) have to be made in writing, in written or textual form (eg letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in case of doubt about the legitimacy of the person issuing a declaration remain unaffected.
6. If provisions of this Contract of Sale should be or become partly or wholly void, the remaining conditions will continue to apply. The parties are bound to replace the void provision or the void part of the provision by a legally valid arrangement, which comes as close as possible to the commercial meaning and purpose of the void provision or void part of the provision.