

Terms & Conditions of Delivery and Payment

I. Application, conflicting general terms and conditions, written form

1. These Terms & Conditions of Delivery and Payment shall apply to the entire business relationship with Panasonic Electric Works Europe AG ("PEWEU"), especially in regards to deliveries, services, offers and declarations of acceptance. They shall apply exclusively. General conditions of Customer shall not apply unless PEWEU has agreed to them in writing in the particular case. In the case of regular or continuous business relations they shall also apply to all subsequent transactions, even if not explicitly agreed upon.
2. Except for orders placed over the internet store of PEWEU, all orders, declarations of acceptance as well as collateral agreements, amendments, supplements and any other arrangements made prior to or upon acceptance of the order shall only be effective if made in writing (e.g. letter, fax, email).

II. Prices, price adjustment

1. Unless otherwise agreed the prices indicated by PEWEU are in Euro, ex works [EXW, Incoterms 2010], including packaging and exclusive of VAT.
2. The prices are determined by the price list valid at the time of conclusion of the contract. If delivery is effected more than four months after the conclusion of the contract, PEWEU is entitled, in case of changes in costs, to reasonably adjust the prices in accordance with the changes in wages, salaries, material and production costs that have meanwhile occurred, provided no fixed price was stipulated.

III. Effectiveness, modification of orders, cancellation

1. Unless otherwise agreed or otherwise indicated, the offers of PEWEU are not binding and without any commitment. A contract becomes only effective upon the written confirmation of the order received by PEWEU and upon Customer's acceptance of delivery at the latest.
2. Before payment is made for invoice amounts due, including interest accumulated for delayed payment, and if the credit limit specified is exceeded, PEWEU is released from all obligations to provide delivery resulting from any running contracts.
3. Modifications of orders requested by Customer shall be carried out if Customer pays all costs incurred due to the modification.
4. If Customer cancels the order without reason, PEWEU is entitled to claim compensation for sustained damage in the amount of 20% of the value of the goods ordered provided that Customer was requested to withdraw the cancellation within a reasonable additional period of time and that Customer maintained the cancellation in spite of this request. The same applies to cases in which Customer fails to make a declaration within the fixed additional period of time. Nothing in this shall prejudice Customer's right to set forth a lower damage and PEWEU's right to set forth a higher damage.

IV. Delivery periods, deadlines, partial deliveries, delay, force majeure

1. Delivery periods or deadlines indicated by PEWEU but not explicitly referred to as binding and/or not agreed upon with Customer as having a binding effect are without any commitment. PEWEU shall endeavour to observe delivery deadlines agreed upon with Customer.
2. PEWEU is entitled to effect and invoice partial delivery or partial performance to a reasonable extent.
3. Besides delivery Customer may claim compensation for the damage caused by a delay in delivery if the reasons for such delay involve intent or gross negligence on the part of PEWEU. Subject to sec. XI. 3, in case of slight negligence the liability of PEWEU shall be limited to damage foreseeable at the conclusion of the contract and typical for the contract.
4. PEWEU shall not be liable for delays in delivery which are due to PEWEU's having received any ordered goods with delay or not at all, if PEWEU is not responsible for such delay or non-delivery, especially if PEWEU has effected a specific covering transaction and the supplier has delivered to PEWEU with delay or not at all.
5. Force majeure as well as breakdowns occurring at PEWEU and/or its suppliers, due to e.g. riots, rightful strikes, lock-outs or government orders, which temporarily hinder PEWEU, without any fault on its part, to deliver the object of purchase by the agreed deadline, shall lead to an extension of the delivery deadlines and periods for the duration of the hindrance caused by these circumstances. If such hindrance prevents performance for more than four months, both parties are entitled to withdraw from the contract. Any other rights of rescission of Customer remain unaffected thereby.

V. Payment, bank charges, default in payment, retention/offsetting

1. The purchase price falls due upon delivery of the object of purchase. Unless otherwise agreed, invoices are payable immediately after receipt without any deductions.
2. If it has been agreed to pay the invoice by direct debit, the deadline for sending pre-notifications for SEPA direct debits is shortened to 5 days.
3. The charges and expenses of Customer's bank incurred in relation to a bank transfer shall be borne by Customer, while the charges and expenses of PEWEU's bank shall be borne by PEWEU.

4. Payment is considered to be in default if not received by the due date; a reminder is not necessary. If Customer is in default with payment, PEWEU is, in addition to possibly enforcing other claims, entitled to an additional 8% interest for delayed payment above and beyond the basic interest rate. Customer's right to set forth a lower damage caused by default and PEWEU's right to set forth a higher damage caused by default shall not be affected thereby.
5. If the buyer is in default of payment for an invoice, or if our demands are in danger of not being met for any reason whatsoever, the buyer shall forthwith fulfill all his obligations toward us; this also applies to the balance of any of the buyer's running accounts.

6. Customer can assert a right of retention with respect to claims of PEWEU only if it is based on claims from the same contractual relationship that are uncontested, ready for decision or defined by final enforceable judgment. Any offsetting by Customer is admissible only if Customer's counter-claim is defined by final enforceable judgment, ready for decision or uncontested.

VI. Orders for goods to be delivered on demand

1. In the event that Customer has ordered goods to be delivered on demand and Customer fails to take delivery of the total quantity of the goods ordered within the envisaged period of time, Customer shall have no right to the discount granted for the total quantity of the ordered goods. As regards partial deliveries already effected, PEWEU is entitled to bill Customer the purchase price payable according to the current price list for the goods of which delivery was taken.
2. In the event that Customer is in default with its obligation to demand delivery, it shall have to pay damages to PEWEU in the amount of 1% of the value of the quantity of goods of which Customer has to take delivery, payable for each full month Customer is in default with the fulfilment of its obligation to take delivery. Customer's right to set forth a lower damage and PEWEU's right to set forth a higher damage shall not be affected thereby.
3. In the event that Customer refuses to take delivery of the remaining quantity of the goods ordered after expiration of the agreed demand period, sec. III. 3 shall apply mutatis mutandis as far as the remaining quantity is concerned.

VII. Reservation of ownership

1. The goods delivered by PEWEU remain property of PEWEU as reserved goods ("Reserved Goods") until fulfilment of all obligations resulting from the contractual relationship including other claims subsequently acquired by PEWEU against Customer in connection with the goods delivered, on which legal ground whatsoever. The same applies to payments on specially designated claims.
2. In addition, the goods delivered remain property of PEWEU as Reserved Goods until settlement of all other claims (including all unsettled balances from current account) which PEWEU acquires or will acquire against Customer, on which legal ground whatsoever.
3. Customer is entitled to resell and process the Reserved Goods in the regular course of business. In the event that the Reserved Goods are processed and joined with other goods, PEWEU is entitled to co-ownership of the new article in the proportion of the invoice value of the Reserved Goods to the invoice value of the other goods. Any processing and joining shall be deemed to have been effected on behalf of PEWEU. PEWEU herewith offers to grant Customer a contingent right to the co-ownership share that is created. Customer accepts this offer. Co-ownership shall pass to Customer upon settlement of all claims to which PEWEU is entitled.
4. Customer agrees to assign to PEWEU the claims arising from the resale of Reserved Goods in order to secure all outstanding claims of PEWEU against Customer. PEWEU accepts the assignment. If the Reserved Goods are resold together with other goods after processing and joining, the assignment of the claim resulting from resale shall only be effective up to the amount of the invoice value of the goods delivered by PEWEU. PEWEU may revoke the right to resell for objectively justified reasons, as long as PEWEU is still owner of the Reserved Goods.
5. Customer is revocably authorized to collect the assigned claim. PEWEU may revoke the authority to collect the claim for objectively justified reasons. This does not affect PEWEU's entitlement to collect the amounts due, but PEWEU undertakes not to collect the amounts due as long as Customer meets its financial obligations towards PEWEU.
6. Customer is obliged to adequately insure the goods of which PEWEU is the owner or joint owner, and to maintain insurance protection. Customer herewith assigns to PEWEU the claims against its insurance company in case of loss to the extent that such claims relate to goods of which PEWEU is the owner or joint owner. PEWEU accepts the assignment.
7. During the reservation of ownership, any pledging, mortgaging, hiring or other assignment or modification of the Reserved Goods, impairing PEWEU's rights to security, is subject to the prior written consent of PEWEU. This does not affect Customer's right to resell the Reserved Goods in the regular course of business in accordance with sec. VII.3.
8. If Customer has not only temporarily suspended payments, if it files a petition for institution of insolvency proceedings against its assets or if insolvency proceedings are instituted against its assets, Customer is obliged, upon request of PEWEU, to return to PEWEU the Reserved Goods. Furthermore, in the event of Customer's breach of contract, in particular default of payment, Customer is obliged, after demand for payment, to return to PEWEU the Reserved Goods. The accepted return of the Reserved Goods only represents a rescission if expressly declared so by PEWEU. In these cases Customer is also obliged to immediately send PEWEU a list of the remaining Reserved Goods, even if they have already been processed, together with a list of the claims against third-party debtors.
9. Should the realisable value of all securities provided for the benefit of PEWEU resulting from reservation of ownership, mortgaging and assignment of future claims exceed the total amount of PEWEU's claims against Customer by more than 10%, PEWEU is obliged at its option to either renounce the reservation of ownership and/or release the security resulting from mortgaging and assignment of future claims.

VIII. Liability for defects

1. Customer has to examine the goods delivered right after delivery. Obvious defects have to be notified to PEWEU in writing within 14 days from delivery and hidden defects within 14 days from the date on which the defect was discovered. The legal consequences of § 377 HGB shall apply if Customer fails to make any such notification.
2. As regards defects notified in due time PEWEU shall warrant for these defects according to the legal provisions on the following conditions:
 - a. In the event of a defective delivery Customer has the right to claim either free-of-charge subsequent improvement or free-of-charge replacement ("**Subsequent Performance**"), at the option of PEWEU. If Subsequent Performance fails, Customer may, at its choice, withdraw from the contract or reduce the remuneration. Subsequent Performance is deemed to have failed if a defect cannot be remedied after at least two subsequent improvements or replacements, in technically complicated cases after at least three subsequent improvements or if another attempt of subsequent improvement or another replacement is unacceptable for Customer or impossible, unacceptably delayed or seriously and definitely refused. The parts replaced on the occasion of a subsequent improvement shall become property of PEWEU.
 - b. Customer cannot assert claims for expenses incurred because of Subsequent Performance (e.g. transportation costs, tolls, work and material costs) if these expenses are increased because the purchased product was after delivery shipped to a location other than Customer's seat or establishment, unless such relocation is required by the designated use of the product. If Customer's notification of defects is not justified for reasons for which Customer is accountable, Customer has to reimburse PEWEU of the expenses incurred thereby.
 - c. Customer can only claim damages or reimbursement of expenses for defects to the extent that PEWEU's liability is not excluded or restricted according to sec. XI. Any claims for defects in quality above and beyond or other than those laid down in this sec. VIII are excluded.

IX. Disposal of the delivered goods

1. Customer is obliged to duly dispose of the delivered goods after the termination of their use in accordance with the statutory requirements at Customer's expense. Customer will in this respect release PEWEU from the obligations under Sec. 10 (2) ElektroG (*Act Governing the Sale, Return and Sound Disposal of Electrical and Electronic Equipment*) (manufacturers' duty to take back waste electrical and electronic equipment) and indemnify PEWEU against any related claims of third parties.
2. If the goods delivered by PEWEU are resold in the course of commercial business Customer shall impose suitable contractual requirements to ensure that either Customer's customer sees to their due and proper disposal in accordance with the statutory provisions after the termination of the use and/or assumes liability towards its customers for the due and proper disposal, or that Customer will arrange for the due and proper disposal in the relation with its customer.
3. If after the termination of the use a third party asserts a claim for the disposal of the delivered goods against PEWEU, Customer shall duly dispose of the goods and indemnify PEWEU from and against all claims of third parties in relation to the obligations under Sec. 10 (2) ElektroG.
4. PEWEU's claim against Customer under sec. IX.1 to fulfil the duty of disposal and/or to release PEWEU from the obligations under Sec. 10 (2) ElektroG will become statute-barred at the earliest one year after the definite termination of the use and awareness of PEWEU thereof.

X. Software products

As regards software products, the licensing conditions of the respective products shall have priority and shall apply additionally.

XI. Liability, statute of limitation

1. PEWEU shall be liable for damage caused by PEWEU or persons employed in the performance of PEWEU's obligations, provided that such damage is due to intent or gross negligence. In the event of a slightly negligent breach of a major obligation or of an accessory obligation whose breach will put the achievement of the contractual purpose at risk, or whose fulfilment is essential for the due and proper implementation of the contract, and whose fulfilment Customer could reasonably rely on ("**Essential Accessory Obligation**"), the liability of PEWEU shall be limited to damage typical of the contract and foreseeable at the time of conclusion of the contract. PEWEU accepts no liability for any slightly negligent breach of contractual accessory obligations which are not Essential Accessory Obligations.
2. Customer is obligated to immediately notify PEWEU of any damage for which PEWEU is liable and to have such damage documented by PEWEU.
3. PEWEU's liability for a guarantee issued as to quality or durability, for malice, for tortious acts, for physical injury and for defects of products according to the Product Liability Act shall not be affected by the foregoing regulations. This shall not entail a reversal of the burden of proof to Customer's disadvantage.
4. With the exception of claims based on tortious acts, Customer's claims for damages for which liability is limited under this sec. XI become time-barred within one year, calculated from the beginning of the statutory limitation period.

XII. Anti-Bribery Rules

1. Customer confirms that it understands the importance of anti-bribery laws and will comply and procure that its employees comply with all relevant anti-bribery laws.
2. For the purposes of this Agreement, "bribery" includes, but is not limited to, the promising or granting of or the requesting or receiving of benefits in money or money's worth to a person with the aim of influencing that person in order to obtain business improperly or gain an improper advantage.
3. Customer agrees to keep proper accounting records (approvals, invoices etc.) of payments and financial transactions.
4. In case of breach of any provision of this section by Customer, PEWEU, without prejudice to any other remedies it may have, shall be entitled to terminate the business relation with immediate effect for good reason.

XIII. No manufacture of weapons of war or destruction, observance of export laws

1. Customer shall not use the goods delivered by PEWEU for the purpose of development, design, manufacture, use or storage of any weapons of war and destruction, including but not limited to nuclear weapons, biological weapons, chemical weapons and missiles ("**Weapons**").
2. Customer shall not sell, lease or otherwise dispose of the goods delivered by PEWEU, directly or indirectly, to any customer using the goods in the development, design, manufacture, storage or operation of Weapons.
3. Customer shall not export or re-export, directly or indirectly, the goods delivered by PEWEU without the authorization required under export control laws and/or regulations of any countries claiming jurisdiction over the contracting parties.

Customer shall not export or re-export, directly or indirectly, the goods delivered by PEWEU to any country against which any sanction is imposed under certain resolutions of the Security Council of the United Nations for as long as such resolutions remain valid and effective and as far as the goods delivered by PEWEU remain prohibited to be exported to such country.

4. In the event Customer breaches any provision of this sec. XIII, Customer shall be liable to PEWEU for all direct and indirect damage sustained by PEWEU due to such breach. PEWEU shall in such an event have the right to terminate the contract with Customer forthwith without any liability towards Customer. Furthermore PEWEU shall not be obliged to accept or fulfil any orders which might contravene any export control laws, rules and/or regulations of any relevant countries or provisions of this sec. XIII.

XIV. Confidentiality of internet store access data

Customer agrees to keep confidential and not disclose to any unauthorized third parties the access data provided to Customer for the PEWEU internet store. Any culpable breach of this duty by Customer will oblige Customer to compensate PEWEU for any damage caused by such breach of duty.

XV. Place of performance, passing of risk, delay in acceptance

1. The seat of PEWEU shall be the place of performance for all deliveries and payments, provided that Customer is a merchant.
2. Unless otherwise agreed the risk shall pass to Customer as soon as the goods are handed over by PEWEU to the forwarding agent, carrier or any other person in charge of transport. In case Customer fails to accept the goods in due time, even though they were offered to him, the risk shall pass to Customer on advice that the ordered goods are ready for dispatch.

XVI. Place of jurisdiction, applicable law

1. Madrid (CI San Severo 18-20 28042) shall be exclusive place of jurisdiction for all disputes arising between PEWEU and Customer, on which legal ground whatsoever, provided that Customer is a fully qualified merchant or a legal person under public law or does not have its domicile in the Federal Republic of Germany. However, PEWEU shall also have the right to instigate court proceedings against Customer in any court having jurisdiction. Regarding the implementation of the receivables, PEWEU may appoint a representative in Spain to encourage such enforcement in accordance with Spanish law.
2. The laws of the Kingdom of Spain shall be applicable.