

Terms and Conditions of Sale PETROFER GmbH

I. Scope, form of unilateral declarations

1. These Terms and Conditions of Sale (T&Cs) apply to all business relationships between PETROFER GmbH and its customers (“Buyer” or “Buyers”). The T&Cs only apply if the Buyer is a merchant [*Unternehmer, as defined in section 14 of the BGB or German Civil Code*], a legal entity under public law or an off-budget entity.
2. The T&Cs apply to contracts for the sale and delivery of movable goods (“Goods”), regardless of whether PETROFER GmbH manufactures the Goods itself or purchases them from suppliers (see Sections 433, 650 of the BGB). Unless otherwise agreed, the T&Cs in the version enforceable at the time the Buyer places the order, or in the version last communicated to the Buyer in writing shall also apply as a framework agreement to similar future contracts, without the necessity for PETROFER GmbH to refer to the T&Cs again in each case.
3. These T&Cs shall apply exclusively. Any of the Buyer’s terms and conditions that depart from, conflict with, or supplement our own Terms and Conditions only become part of the contract if PETROFER GmbH have explicitly agreed thereto. Such requirement for consent is mandatory, for example also when PETROFER GmbH ships to the Buyer without reservation even though it is aware of the Buyer’s terms and conditions.
4. Separate agreements made with the Buyer in certain cases (including collateral agreements, supplements and amendments) shall always take precedence over these T&Cs. Subject to evidence to the contrary, a written contract or our written confirmation shall govern the content of such agreements.
5. Legally relevant declarations and notifications by the Buyer regarding the contract (e.g. setting deadlines, reporting defects, cancelling or reducing the contract) must be submitted in writing or text form (e.g. as a letter, e-mail, fax) without prejudice to formal, statutory requirements and the furnishing of further proof, including, but not limited to cases where doubts arise about the legitimacy of the person making such declarations or notifications.
6. Any references to the legal force of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or explicitly excluded in these T&Cs.

II. Conclusion of contract

1. PETROFER GmbH’s quotations are without obligation. Such provision shall also apply if PETROFER GmbH has furnished the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – also electronically – to which PETROFER GmbH reserves all property rights and copyrights.

2. **With the exception of CEOs or people with general powers of signature [*Prokuristen*], employees of PETROFER GmbH are not authorised to make verbal collateral agreements or give verbal assurances that extend beyond the written contract.**
3. If the Buyer orders the Goods, the contract is considered binding. Unless otherwise stated in the order, PETROFER GmbH shall be entitled to accept this order within two weeks after it has received it.
4. Acceptance of the order can either be in writing (e.g. in the form of an order confirmation), or by shipping the Goods to the Buyer.

III. Prices and conditions of payment

1. Unless otherwise specified, PETROFER GmbH is bound by the prices listed in their quotes for 30 days from the date of such quotes. The prices quoted are per 100 kg or 100 litres, per unit or per container, plus VAT.
2. In the case of shipments to a location other than the customer's premises, the Buyer shall bear the transport costs ex warehouse and the costs of any transport insurance the Buyer requests. The Buyer shall meet the costs of any customs duties, fees, taxes and other official levies.
3. Subject to special agreement, invoices from PETROFER GmbH shall be payable without deduction within 30 days of billing and delivery or acceptance of the Goods, except where invoice are for services, e.g. disposal of waste salt, regeneration and evaporation, test chemicals and equipment, which shall be payable immediately in full. However, PETROFER GmbH shall be entitled at any time, even during an ongoing business relationship, to make a delivery in whole or in part only against advance payment. Such a condition shall be specified when the order is confirmed at the latest.
4. Once the afore-mentioned payment deadline has expired, the Buyer is in default. During the period in which the Buyer is in default, interest shall be charged on the purchase price at the statutory interest rate applicable at the time. Should the Buyer be in default, PETROFER GmbH shall also be entitled to payment of a flat fee of 40 euros. PETROFER GmbH also reserves the right to claim for further damages for the delay, taking into account the statutory deduction of the afore-mentioned flat fee. *Vis à vis merchants [Kaufleute as defined under German law] the claim to commercial maturity interest (article 353 of the HGB [German Commercial Code]) still applies.*
5. The Buyer is only entitled to offsetting rights or rights to retention of title if such rights have been established by due legal process or are not in dispute. Any defects in performance do not prejudice the Buyer's rights to assert counterclaims.
6. Should it transpire, after conclusion of the contract (e.g. via an application to instigate insolvency proceedings) that the entitlement to the purchase price is jeopardised by the Buyer's inability to pay, PETROFER GmbH shall be entitled to refuse performance pursuant to statutory provisions and – if necessary after setting a deadline – to withdraw from the contract (Section 321 of the BGB). In the case of contracts for the manufacture

of non-fungible Goods (customised products), PETROFER GmbH may withdraw from the contract immediately, without prejudice to statutory regulations regarding the necessity of setting a deadline.

7. PETROFER GmbH shall be entitled, despite any other stipulations to the contrary on the part of the Buyer, to offset payments against the Buyer's older liabilities. The Buyer shall be informed about the type of offsetting that has occurred. Should expenses and interest already have been incurred, PETROFER GmbH shall be entitled to offset the payment firstly against the expenses, then the interest and finally to the main service provided.

IV. Lead time, delay in shipment, force majeure, returnable packaging

1. The lead time is agreed on an individual basis, or stated by PETROFER GmbH when the order is accepted.
2. Should PETROFER GmbH be unable to meet binding delivery deadlines for reasons for which PETROFER GmbH is not responsible (non-availability of the product), the Buyer shall be informed thereof immediately and notified of the expected new delivery deadline at the same time. If the Goods are not available within the new lead time, PETROFER GmbH shall be entitled to withdraw from the contract in whole or in part; any sums already paid by the Buyer shall be reimbursed immediately. Non-availability of the Goods shall be deemed including, but not limited to, the failure of PETROFER GmbH's supplier to deliver on time if a congruent hedging transaction has been concluded, neither PETROFER GmbH nor its supplier are at fault or PETROFER GmbH is not obliged to procure the Goods in each case.
3. The statutory provisions govern when a delay in delivery occurs. However, in such case, a warning by the Buyer is required. If PETROFER GmbH defaults in providing performance, the Buyer may demand a flat rate to compensate for the loss caused by such delay. Such flat rate will total 0.5% of the net price (delivery value) for each full calendar week performance is delayed, but not exceed 5% of the value of the Goods that were provided late. Further compensation for damages caused by delay is ruled out. PETROFER GmbH reserves the right to prove that the Buyer has not suffered any loss, or that such loss is significantly less than the aforementioned sum.
4. Without prejudice are the rights of the Buyer, pursuant to Section IX of these T&Cs and the statutory rights of PETROFER GmbH, including, but not limited to an exemption of the duty to perform (e.g. because performance is impossible or cannot reasonably be expected, and/or supplementary performance).
5. PETROFER GmbH shall not be liable should it prove impossible to deliver the Goods, or be liable for delays in delivery if caused by force majeure, such as epidemics, pandemics, civil unrest, armed or terrorist conflicts, natural disasters, interventions by national and international authorities or other events that were not foreseeable (e.g. operational disruptions of all kinds, problems procuring materials or power, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, challenges with procuring official permits, or lack of, incorrect or unpunctual delivery by suppliers) and for which PETROFER GmbH bears no culpability. Should such problems make delivery or

performance significantly more difficult or impossible for PETROFER GmbH and such problems are not of a temporary nature, PETROFER GmbH shall be entitled to withdraw from the contract. Should such problems be of a temporary nature, delivery or performance periods shall be extended or the delivery or performance deadlines postponed by the period during which such temporary problems occur plus an appropriate time to allow operations to restart. If the Buyer cannot reasonably be expected to accept the delivery or service as a result of the delay, the Buyer may withdraw from the contract and inform PETROFER GmbH accordingly and without delay.

6. Returnable packaging must be empty and sent back carriage paid to Hildesheim, Germany, in a reusable condition within 3 months. If such packaging is not returned, PETROFER GmbH shall be entitled to invoice the customer for the value of the returnable packaging. Loaned packaging may not be used to store third-party or used products; it must be protected from the impact of weather conditions.

V. Delivery, transfer of risk, default of acceptance

1. Delivery is ex warehouse, which is also the place of performance for the delivery and any supplementary performance. The Goods can be shipped to a location other than the customer's premises at the Buyer's request and cost. Unless otherwise specified, PETROFER GmbH is entitled to determine the type of shipping (including, but not limited to which forwarders, shipping route, packaging) itself.
2. The risk of accidental loss and accidental deterioration in the Goods purchased passes to the Buyer when the Buyer receives the goods at the latest. However, in the case of shipments to a location other than the customer's premises, the risk of accidental loss and accidental deterioration of the Goods, as well as the risk of delay, shall already pass upon delivery of the goods to the forwarding agent, the carrier or the person or organisation otherwise entrusted with shipping the goods. Should the Buyer be in default of acceptance, such default shall be deemed equivalent to acceptance of the Goods.
3. Should the Buyer be in default of acceptance, fail to co-operate or if the delivery is delayed for other reasons for which the Buyer is responsible, PETROFER GmbH shall be entitled to demand compensation for the resulting loss including additional expenses (e.g. warehousing costs). PETROFER GmbH shall charge a flat fee as such compensation, totalling 0.5% of the net price (value of the shipment) for each completed calendar week of the default of acceptance, commencing with the delivery deadline or – should no delivery deadline exist – when it notifies the customer that the Goods are ready for dispatch, but not exceeding 5% of the delivery value of the goods accepted late and 10% of the delivery value in the event of final non-acceptance. Such sums are without prejudice to the provision of proof of higher losses by and the statutory entitlements of PETROFER GmbH (including, but not limited to reimbursement of additional expenses, reasonable compensation, cancellation); however, the flat fee shall be offset against further financial entitlements. The Buyer reserves the right to prove that PETROFER GmbH has not suffered any loss, or that such loss is significantly less than the aforementioned flat fee.

VI. Retention of title

1. PETROFER GmbH shall retain title to the Goods sold (Goods Subject to Retention of Title) until full payment of all current and future receivables arising from the purchase contract and an ongoing business relationship (secured receivables). Such provision shall also apply if payments are made for specially designated receivables. If an invoice has not yet been paid, the Goods Subject to Retention of Title shall serve as security until the receivables have been paid.
2. The Goods Subject to Retention of Title may neither be encumbered by third parties nor assigned as security before full payment of the secured receivables. The Buyer shall inform PETROFER GmbH with delay and in writing if an application for the instigation of insolvency proceedings has been filed or if the Goods Subject to Retention of Title are seized (e.g. encumbered) by third parties.
3. Should the Buyer be in breach of contract, including, but not limited to non-payment of the purchase price due, PETROFER GmbH shall be entitled to withdraw from the contract as specified by the statutory provisions and/or to demand the return of the Goods on the basis of retention of title and, if necessary, to demand assignment of the Buyer's demand for surrender of the Goods vis à vis third parties. The demand for surrender of the Goods does not constitute withdrawal from the contract; PETROFER GmbH is, however, entitled to merely demand the return of the Goods and reserve the right to cancel the contract. Should the Buyer not settle the purchase price due, PETROFER GmbH may only assert these rights if it has previously set the Buyer a reasonable deadline for payment without success or if setting such a deadline is mandated by law.
4. The Buyer shall be authorised to resell and/or process the Goods Subject to Retention of Title in the ordinary course of business until such right has been revoked as specified under c below. In this case, the following provisions shall also apply.
 - a. The retention of title shall cover the full value of the Goods created by processing, amalgamating or combining the Goods Subject to Retention of Title, with PETROFER GmbH deemed to be the manufacturer. If, in the event of processing, amalgamating or combining such Goods with those belonging to third parties, their right of ownership remains in force, PETROFER GmbH shall acquire co-ownership in proportion to the sums invoiced of the processed, amalgamated or combined goods. In all other respects, the same shall apply to the final product or products as to the Goods Subject to Retention of Title. The customer shall store the (shared) property of PETROFER GmbH free of charge.
 - b. The Buyer shall assign to PETROFER GmbH by way of security all receivables vis à vis third parties arising from the resale of the Goods Subject to Retention of Title or the product or any other legal grounds (insurance, unauthorised action, etc.) in respect of the Goods Subject to Retention of Title (including all current account receivables) in total or to the value of any co-ownership share in accordance with the paragraph above. PETROFER GmbH accepts such assignment. The Buyer's duties, specified under clause 2, shall also apply with regard to the assigned receivables.

- c. Alongside PETROFER GmbH, the Buyer shall be entitled to collect such receivables. PETROFER GmbH undertakes not to collect the receivables as long as the Buyer fulfils payment obligations and is not incapable of paying and PETROFER GmbH does not assert retention of title by exercising a right pursuant to clause 3. However, should this be the case, PETROFER GmbH may demand that the Buyer informs them of the assigned receivables and the associated debtors, provides all information required to collect receivables, surrenders the relevant paperwork and informs the debtors (third parties) of the assignment. In such case, PETROFER GmbH shall also be entitled to revoke the Buyer's authorisation to resell and process the Goods Subject to Retention of Title.
- d. If the value of the securities exceeds the receivables by more than 10%, PETROFER GmbH shall release securities of its choice at the Buyer's request.

VII. Export checks and customs

1. The Buyer undertakes to inform PETROFER GmbH automatically and without delay should it transpire that a product ordered by a recipient/party to the contract could be subject to export foreign trade restrictions. Such restrictions are specified in the *Aussenwirtschaftsgesetz ([AWG] or German Foreign Trade and Payments Act)*, the *Aussenwirtschaftsverordnung ([AWV] the Foreign Trade and Payments Ordinance)*, each with annexes, regulation (EC) 428/2009 (EC Dual-Use Regulation) and other regulations applicable in Germany. The Buyer is aware that legal provisions are constantly subject to change and the current version must be applied to the contract at the time.
2. All costs and losses incurred by PETROFER GmbH resulting from breach of this obligation shall be borne by the Buyer if the Buyer is responsible for the breach. Shipments to the Buyer are subject to any permits required from the authorities concerned (e.g. the *Bundesamt für Wirtschaft und Ausfuhrkontrolle BAFA* or *German Federal Office for Economic Affairs and Export Control*). If pending permits mean lead times cannot be met, these lead times shall be extended by the time the permits take to be approved.
3. PETROFER GmbH's Buyer guarantees that they will not sell, export, re-export, pass on or otherwise make available the Goods supplied, if these Goods are subject to art. 12 regulation (EU) 833/2014, either directly or indirectly to the Russian Federation or for use in the Russian Federation. The same applies to other countries on which export restrictions are currently imposed or will be in the future (e.g. Belarus, Iran, North Korea, etc.). The Buyer shall inform PETROFER GmbH automatically and without delay if they become aware of a breach in foreign trade restrictions due to forwarding of Goods supplied by PETROFER GmbH.
4. The Buyer shall do their utmost to ensure that third parties further down the trading chain, including but not limited to resellers, do not thwart the provision in paragraph (1).
5. The Buyer is obliged to create and maintain an appropriate monitoring system to prevent circumvention of the regulation under paragraph (1) by third parties further down the trading chain or by potential resellers.

6. Any breach of the above-mentioned paragraphs (1), (2) and (3) shall constitute a key breach of contract and entitle PETROFER GmbH to terminate the relationship with the supplier with immediate effect, to cancel orders already agreed and to withdraw from any contracts already concluded. The Buyer shall also indemnify PETROFER GmbH against all costs, third-party claims, and other negative outcomes (e.g. fines) arising from the breach of an obligation pursuant to the paragraphs above (1), (2) or (3). This does not apply if the Buyer is not responsible for this breach. Furthermore, PETROFER GmbH shall be entitled to demand a contractual penalty from the Buyer totalling 15% of the sales price of the Goods sold in violation of the provisions of this regulation without prejudice to any existing claims for damages. The Buyer reserves the right to prove that losses are lower.
7. The Buyer undertakes to inform PETROFER GmbH of any breaches of the provisions of paragraphs (1), (2) or (3). On request, the Buyer shall provide all information on compliance with the obligations under paragraphs (1), (2) and (3) within two weeks. This also applies to end-user certificates (EUCs). PETROFER GmbH shall inform the relevant authority of any infringements of the provisions of the above paragraphs (1), (2) and (3).

VIII. Buyer claims for defects

1. Unless otherwise specified below, the statutory provisions shall apply to the Buyer's rights in the event of material defects and a defective title (including incorrect and short shipments as well as improper assembly or faulty assembly instructions). The special statutory provisions for final delivery of unprocessed Goods to a consumer apply in all cases, even if the consumer has processed these Goods further (supplier's right of redress pursuant to section 478 of the BGB). Claims arising from the supplier's right of redress are ruled out if the defective Goods have been processed further by the Buyer or another merchant, e.g. by incorporating the Goods in another product.
2. If a product characteristic has not been agreed, the statutory provisions apply in terms of assessing whether a defect is present or not (Section 434 (1) sentences 2 and 3 of the BGB). However, we accept no liability for public announcements made by the manufacturer or other third parties (e.g. advertising claims) which the Buyer has not told us were decisive in their decision to purchase the Goods.
3. PETROFER GmbH shall not be liable for defects which the Buyer was aware of, or acted with gross negligence in not being aware of such defects when the contract was concluded (Section 442 of the BGB). Furthermore, the Buyer's claims for defects require them to have fulfilled their statutory inspection and complaint obligations (see Sections 377, 381 of the HGB). In the case of construction materials and other Goods intended for incorporation in products or for other types of further processing, an inspection must always be carried out directly beforehand. If the Buyer omits to properly inspect the Goods and/or report defects, our liability for the defect not reported or not reported on time or not reported properly shall be excluded pursuant to statutory provisions.
4. Should the Goods delivered be defective, PETROFER GmbH may choose whether to provide supplementary performance by remedying the defect (reworking the product) or

by delivering a flawless product (replacement delivery). This shall be without prejudice to the right to refuse supplementary performance under the statutory conditions.

5. PETROFER GmbH shall be entitled to provide supplementary performance contingent upon the Buyer paying the purchase price owed. However, the Buyer shall be entitled to withhold a reasonable amount of the purchase price in proportion to the defect.
6. The Buyer shall give PETROFER GmbH the requisite time and opportunity to provide the supplementary performance owed, including, but not limited to surrendering the rejected Goods for inspection purposes. In the event of a replacement delivery, the Buyer shall return the defective Goods pursuant to the statutory provisions. Supplementary performance includes neither removal of the defective Goods nor their reincorporation if we were not originally obliged to incorporate them.
7. If a defect in the Goods actually exists, PETROFER GmbH shall bear or reimburse the costs of inspecting the goods and for supplementary performance, including, but not limited to transport of the goods, travel by personnel, labour and material costs and, if applicable, removal and installation costs, pursuant to statutory provisions. Otherwise, PETROFER GmbH may demand compensation from the Buyer for the costs incurred as a result of the unjustified request to remedy the defect (including, but not limited to testing and transport costs), unless it was impossible for the Buyer to establish that no defect was present).
8. If supplementary performance proves unsuccessful or a reasonable deadline to be set by the Buyer for supplementary performance has expired without result, or such deadline is superfluous pursuant to statutory provisions, the Buyer may withdraw from the purchase contract or reduce the purchase price. However, there is no right to withdraw from the contract should a defect be of a minor nature.
9. Even in the case of defects, claims by the Buyer for damages or reimbursement of expenses made without a successful outcome shall only be permissible pursuant to Section IX and are otherwise ruled out.

IX. Other liability

1. Unless otherwise stipulated in these T&Cs and the following provisions, PETROFER GmbH shall be liable in the event of a breach of contractual and non-contractual obligations pursuant to the statutory provisions.
2. PETROFER GmbH shall be liable for damages – regardless of the legal grounds – in cases of willful intent or gross negligence. In the event of petty negligence, PETROFER GmbH shall only be liable, subject to statutory limitations of liability (e.g. the level of diligence exercised in their own affairs), as follows:
 - a. For damages relating to a danger to life, limb and health,
 - b. For damages due to a breach of a key contractual obligation (an obligation whose fulfilment enables proper execution of the contract in the first place and on whose compliance the contractual partner relies and may rely on in accordance with provisions); in this case, however, liability is limited to compensation for foreseeable losses that typically occur.
3. The liability limitations specified in clause 2 also apply to third parties, as well as breaches of duty by persons (also in their favour) whose culpability PETROFER GmbH is legally responsible for pursuant to statutory regulations. Such liability limitations do not apply if a defect has been fraudulently concealed, or a guarantee of product features has been furnished or to claims made by the Buyer under the Produkthaftungsgesetz [*German Product Liability Act*].
4. The Buyer may only withdraw from or cancel the contract due to a breach of duty that is not due to a defect if PETROFER GmbH is responsible for the breach of duty. Otherwise, the statutory requirements apply and legal consequences shall apply.

X. Statute of limitations

1. Notwithstanding Section 438 (1) No. 3 of the BGB, the statute of limitations for claims arising from material defects and defective titles is one year from delivery of the Goods.
2. However, if the Goods are a building, or an item that has been used in its customary manner for a building and such item has caused a defect in the building (because such Goods are construction materials for example), the statute of limitations is 5 years from delivery of such item or items (Section 438 (1) No. 2 BGB). This is without prejudice to other special statutory provisions on the statute of limitations (including, but not limited to Section 438 (1) No. 1, Para. 3, Section 445b BGB).
3. The aforementioned statutes of limitations regarding German sales law also apply to contractual and non-contractual claims for damages on the part of the Buyer, which are based on defective Goods, unless applying the standard statute of limitations (sections 195, 199 of the BGB) in accordance with provisions is shorter. Claims for damages by the Buyer in accordance with Section VIII Clause 2 Sentence 1 and Sentence 2 (a) and in

accordance with the German Product Liability Act shall become time-barred exclusively pursuant to the mandatory statutes of limitations.

XI. Choice of law, venue, invalid clauses

1. These T&Cs and the contractual relationship between PETROFER GmbH and the Buyer shall be governed by the law of the Federal Republic of Germany to the exclusion of international law that establishes a uniform framework for international commerce, including, but not limited to UN Convention on Contracts for the International Sale of Goods.
2. If the Buyer is a merchant [*Kaufmann*] as defined in the German Commercial Code [*Handelsgesetzbuch*], a legal entity under public law or an off-budget entity, the exclusive – also international – venue for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of PETROFER GmbH in Hildesheim, Germany. However, pursuant to these T&Cs, or an overriding agreement on a case-by-case basis, PETROFER GmbH is entitled to bring an action at the place of performance where delivery of the Goods was specified, or at the Buyer's venue. This is without prejudice to overriding legal provisions, including, but not limited to exclusive competence.
3. Should any provision in these T&Cs be or become enforceable, it will not prejudice the legal force of all other provisions.