

Terms and conditions of sale / purchase contract of Pesmel Rev06/01.01.2015

1. GENERAL

1.1. These Conditions shall apply to all Pesmel or Pesmel Group company deliveries. Any deductions, additions or modifications from them must be agreed in writing at the time of signing the contract. The object under this contract to be supplied by Pesmel under these General Conditions is hereinafter referred to as the Project. Wherever the term in writing is used, this shall mean by document signed by the parties, mailed as letter via postal service, fax or email.

2. ORDER AND ORDER CONFIRMATION

2.1. Orders, order related documentable transactions, modifications and amendments must be made in writing. Any and all documents listed as appendices to the order shall be treated as part of it. At the time or order confirmation Pesmel shall send the customer an order confirmation as well as all pertinent appendices. All appendices to the order confirmation have a revision date and document name or number. If Pesmel order confirmation differs from the original order, the customer shall accept order confirmation as an automatic modification to the original order. If the customer does not agree with the order confirmation they shall inform Pesmel within 4 working days of the receipt of the order confirmation.

2.2. Pesmel reserves a right not to accept the order. In this case, Pesmel will inform customer within four (4) working days from receipt of the order.

3. PROJECT INFORMATION

3.1. The project consists of the main items listed in the technical Specifications (Mechanical, Electrical, Automation, Scope Table, etc.). Functionality of the project has been clearly identified in the operational description supplied by Pesmel. Any item or functionality not specifically listed in the above mentioned documents are not included in the project and must be agreed to separately. Pesmel shall not start working on any modifications until technical, functional, commercial and delivery time understanding has been reached, related order has been placed and order confirmation provided to the customer by Pesmel.

4. DRAWINGS AND DESCRIPTIONS

4.1. All specifications, drawings, product data and technical documents supplied by the customer are and will stay the property of the customer. Any and all specifications, drawings, product data and technical data provided or created by Pesmel will stay property of Pesmel. Specifications, drawings, product data and technical documents, pictures or calculations shall not, without the consent of the other party, copied, reproduced, transmitted or communicated to a third party. This also applies to manufacturing of spare parts.

4.2. Pesmel will provide as part of the project information and drawings which are required for the Purchaser to erect, commission, operate and maintain the Project. Such information and drawings shall be supplied in four

hard copies only. Any additional copies shall be purchased by the customer from Pesmel. Pesmel shall choose the information to be provided to the customer. (The set typically includes foundation drawings, layout drawings, main equipment assembly drawings, operator manuals and maintenance manuals as well as spare parts lists). Pesmel is not obliged to provide manufacturing drawings or spare parts drawings.

5. ACCEPTANCE TESTS

5.1. Acceptance inspections or tests (if any included in the Project) specified in the contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours. If project is built in several locations then parts of the project can be inspected or tested in several locations. Pesmel shall include an inspection or test procedure and estimated duration as a specification part of the contract. If the contract does not specify the technical requirements, the tests shall be carried out in accordance with appropriate general industry practices.

5.2. Pesmel shall notify the Customer in writing of the acceptance tests in sufficient time to permit the Customer to be represented at the tests. If the Customer is not represented, the test report shall be sent to the Customer and shall be accepted as accurate by the Customer.

5.3. If the acceptance tests show the Project not to be in accordance with the contract, Pesmel shall without delay remedy any deficiencies in order to ensure that the Project complies with the contract. New tests shall then be carried out at the Customer's request, unless the deficiency was considered financially insignificant (financially insignificant = estimated cost to remedy the situation is less than 1% of the project value).

5.4. Pesmel shall bear all costs for acceptance tests carried out at the place of manufacture. The Customer shall however bear all expenses for his representatives in connection with such tests.

5.5. If the Customer wishes to extend the inspections or tests, this must be agreed to separately in writing.

5.6. Customer will arrange test material to test site at their own cost. Amount and specification of the test material to be defined by Pesmel based on the Project.

6. DELIVERY. PASSING OF RISK

6.1. Any agreed delivery term shall be construed in accordance with the INCOTERMS in force at the formation of the contract. If no trade term is specifically agreed, the delivery shall be Ex works (EXW). If, in the case of delivery Ex works, Pesmel, at the request of the Customer, sends the Project to its destination, the risk will pass not later than when the Project is handed over to the first carrier. Partial shipments shall be permitted unless otherwise specifically agreed.

7. TIME FOR DELIVERY. DELAY

7.1. Pesmel specifies a 4 week range for the INCOTERMS delivery clause. Actual delivery date can be informed to the Customer after the Project is on board or ready to be loaded. Advance estimate will be given on a weekly basis by Pesmel Project Manager assigned to the Project.

7.2. If Pesimal anticipates that they will not be able to deliver the Project on time, a notice to the Customer will be given within two weeks from the time it becomes evident that a delay is likely. A written notification to the Customer, states the reason for delay and the time when delivery can be expected.

7.3. If delay in delivery is caused by Force Majeure or by an act or omission on the part of the Customer, the time for delivery shall be extended by a reasonable period. This provision applies even if the reason for the delay occurs after the agreed time for delivery.

7.4. If the Project is not delivered at the time for delivery, the Customer may be entitled to liquidated damages from the date on which delivery should have taken place. The liquidated damages shall be payable at a rate of 0.1 per cent of the purchase price for each completed week of delay. The liquidated damages shall not exceed 2.5 per cent of the Project price. If only part of the Project is delayed, the liquidated damages shall be calculated on that part of the Project price attributable to such part of the Project as. The liquidated damages can be deducted by the Customer from the last Project payment. The Purchaser shall forfeit his right to liquidated damages if he has not lodged a claim in writing for such damages within one month after the time when delivery should have taken place. Liquidated damages are the only remedies available to the Purchaser in case of delay on the part of the Supplier. All other claims against the Supplier based on such delay shall be excluded, except where the Supplier has been guilty of gross negligence. In this context gross negligence shall mean a calculated act, material omission or deliberate disregard of these terms and conditions. If the Customer terminates the contract at any time during the Project delivery time he forfeits any and all payments made to Pesimal. In such case the Customer has no legal ownership stake at the Project.

7.5. If the Customer anticipates that he will be unable to accept delivery of the Project at the agreed delivery time, he shall forthwith notify Pesimal in writing thereof, stating the reason and, if possible, the time when he will be able to accept delivery. If the Customer fails to accept delivery at the delivery time, he shall nevertheless pay any part of the purchase price which becomes due on delivery, as if delivery had taken place. Pesimal shall arrange for storage of the Project at the risk and expense of the Customer. Pesimal shall also, if the Customer so requires, insure the Product at the Customer's expense. In addition to the above, Pesimal may be entitled to liquidated damages. The liquidated damages shall be payable at a rate of 0.1 per cent of the Project price for each completed week of delay. The liquidated damages shall not exceed 2.5 per cent of the Project price.

7.6. If, for any reason for which Pesimal is not responsible, the Customer fails to accept delivery within such period, Pesimal may by notice in writing terminate the contract in whole or in part. Pesimal shall then be entitled to compensation for the loss he has suffered by reason of the Customer's default. The compensation shall not exceed that part of the purchase price which is attributable to that part of the Product in respect of which the contract is terminated.

8. AVAILABILITY OF SPARE PARTS

8.1. Pesimal guarantees spare parts availability as follows: Mechanical parts 10 years, electrical parts 5 years, electronic parts 2 years, whereby similar and/or

compatible solutions are permitted. Any conversion costs necessary in this respect shall be borne by the Customer

9. PAYMENT

9.1. Unless otherwise agreed, the purchase price shall be paid with one third at the formation of the contract and one third when Pesimal notifies the Customer that the Project, or the essential part of it, is ready for delivery. Final payment shall be made when the Project is delivered per applicable and agreed to, Incoterms clause.

9.2. Payments shall be made within 30 days of the date of the invoice.

9.3. Whatever the means of payment used, payment shall not be deemed to have been effected before Pesimal's account has been fully and irrevocably credited.

9.4. If the Customer fails to pay by the stipulated date, Pesimal shall be entitled to interest from the day on which payment was due. The rate of interest shall be as proposed in Pesimal's quotation. If the parties fail to agree on the rate of interest, it shall be 10 percentage points above the rate of the main refinancing facility of the European Central Bank in force on the due date of payment.

9.5. In case of late payment Pesimal may, after having notified the Customer in writing, suspend his performance of the contract until he receives payment. If the Customer has not paid the amount due within one month Pesimal shall be entitled to terminate the contract by notice in writing to the Customer and to claim compensation for the loss he has incurred. The compensation shall not under normal circumstances, exceed the agreed Project price.

10. RETENTION OF TITLE

10.1. The Product shall remain the property of Pesimal until paid for in full. The Customer shall at the request of Pesimal assist him in taking any measures necessary to protect Pesimal's title to the Project in the country concerned.

10.2. The retention of title shall not affect the passing of risk defined earlier in this document.

10.3. Materials and tools provided for temporary storage at Customer's site or Customer's control shall be stored separately, identified and administered at free of charge.

10.4. All tools, molds samples, models, profiles, drawings, parts delivered but not required or extras, educational material and software provided by Pesimal shall remain the property of Pesimal and shall not be passed on to third parties or used without prior written consent from Pesimal.

10.5. Any pilferage or disappearance of tools or materials will be invoiced to the customer at full replacement cost.

11. LIABILITY FOR DEFECTS

11.1. Pesimal shall remedy any defect or nonconformity resulting from faulty design, materials or workmanship.

- 11.2. Pesmel’s liability is limited to defects which appear within a period of one year from delivery. If the daily use of the Project exceeds that which is agreed, this period shall be reduced proportionately.
 - 11.3. When a defect in a part of the Project has been remedied, Pesmel is liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Project for a period of one year. Other parts of the Project shall not be extended any warranty as a result of the defect.
 - 11.4. The Customer shall immediately notify Pesmel in writing of any defect which appears. Such notice shall under no circumstance be given later than one week, or it will not be registered by Pesmel and the Customer loses his right to have the defect remedied. The notice shall contain a detailed description of the defect, name of the operator, product being run at the time as well as time and day.
 - 11.5. Where the defect is such that it may cause damage, the Customer shall immediately inform Pesmel in writing. The Customer shall bear the risk of damage resulting from his failure so to notify. On receipt of the notice, Pesmel shall remedy the defect without undue delay and at his own cost.
 - 11.6. Repair shall be carried out at the place where the Project is located unless Pesmel deems it appropriate that the defective part or the Project is returned to him for repair or replacement.
 - 11.7. Pesmel has fulfilled his obligations in respect of the defect when he delivers to the Customer a duly repaired or replaced part.
 - 11.8. If Pesmel has given required notice and no defect is found for which Pesmel is liable, Pesmel shall be entitled to compensation for the costs he has incurred, plus reasonable profit, as a result of the notice.
 - 11.9. The Customer shall at his own expense arrange for any dismantling and reassembly of equipment other than the Project, to the extent that this is necessary to remedy the defect.
 - 11.10. Unless otherwise agreed, necessary transport of the Project or parts thereof to and from Pesmel in connection with the remedying of defects for which Pesmel is liable shall be at the risk and expense of Pesmel. The Customer shall follow Pesmel’s instructions regarding such transport.
 - 11.11. Unless otherwise agreed, the Customer shall bear any additional costs which Pesmel incurs for repair, dismantling, installation and transport as a result of the Project being located in a place other than the place of delivery.
 - 11.12. Defective parts which have been replaced shall be made available to Pesmel and are his property.
 - 11.13. If Pesmel does not fulfil his obligations within reasonable time, the Customer may himself undertake or employ a third party to undertake necessary remedial works at the risk and expense of Pesmel. In this case Pesmel shall pay reasonable costs incurred by the Customer to remedy the defect.
 - 11.14. Pesmel is not liable for defects arising out of materials provided, or a design stipulated or specified by the Customer.
 - 11.15. Pesmel is liable only for defects which appear under the conditions of operation provided for in the contract and under proper use of the Project. Pesmel liability does not cover defects which are caused by faulty maintenance, incorrect erection or faulty repair by the Customer or third party, or by alterations carried out without Pesmel’s consent in writing.
 - 11.16. Pesmel’s liability does not cover normal wear and tear or deterioration.
 - 11.17. Pesmel shall not be liable for any loss the defect may cause including loss of production, loss of profit and other indirect loss.
12. LIABILITY FOR SAFETY
- 12.1. Pesmel shall design and manufacture the Project to the safety requirement defined at the Safety
 - 12.2. Specifications. Those are defined in the specifications attached to this contract. In case of additional safety inspections or modifications are requested or demanded by the Customer or local authority, the Customer will pay all work and modifications related to those requests or demands.
 - 12.3. Pesmel will deliver documents to define how to safely use the system
 - 12.4. Customer shall be responsible for all his operators, or hired labor operating the Project.
 - 12.5. All personnel operating the Project must have received Safety and Operator training
 - 12.6. Any personnel or visitors visiting the vicinity of the Project will have to be accompanied by a Safety trained person who is responsible for the safety of the visitors
13. LIABILITY FOR DAMAGE
- 13.1. Pesmel shall not be liable for any damage to property caused by the Project after it has been delivered and while in the possession of the Customer. Nor shall Pesmel be liable for any substandard product produced by the Project, damage to products manufactured by the Customer, to products where the Customer’s products form a part or where Pesmel’s Project forms a part of the Customer’s product.
 - 13.2. If Pesmel incurs liability towards any third party for such damage to property as described in the preceding paragraph, the Customer shall indemnify, defend and hold Pesmel, its employees, owners, board of directors and suppliers harmless.
 - 13.3. If a claim for damage as described in this Clause is lodged by a third party against one of the parties, the informed party shall forthwith inform the other party thereof in writing.
 - 13.4. Pesmel and the Customer shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of

- them on the basis of damage allegedly caused by the Project.
- 13.5. The Customer will not pass, and will not allow anyone else to pass any Photographs, Drawings, Schematics, calculations etc. of the Project to Pesimal's competitors or third parties for a period of 5 years.
14. **FORCE MAJEURE**
- 14.1. Either party shall be entitled to suspend performance of his obligations under the contract to the extent that such performance is impeded or made unreasonably difficult by any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause. A circumstance referred to in this Clause whether occurring prior to or after the formation of the contract shall give a right to suspension only if its effect on the performance of the contract could not be foreseen at the time of the formation of the contract.
- 14.2. The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance.
- 14.3. If Force Majeure prevents the Customer from fulfilling his obligations, he shall compensate Pesimal for expenses incurred in securing and protecting the Project.
15. **ANTICIPATED NON-PERFORMANCE**
- 15.1. Notwithstanding other provisions in these Terms and Conditions regarding suspension, each party shall be entitled to suspend the performance of his obligations under the contract, where it is clear from the circumstances that the other party will not be able to perform his obligations. A party suspending his performance of the contract shall forthwith notify the other party thereof in writing.
16. **INSURANCE COVERAGE**
- 16.1. When performing contractual work on premises of the Customer or third party Pesimal will provide a copy of his Insurance Certificates. In case the Customer deems those limits to be not adequate, Pesimal will increase the insurance limits but any and all costs will be invoiced back to the Customer.
17. **PERSONAL PROTECTION EQUIPMENT**
- 17.1. Pesimal will have PPE (Personal Protection Equipment) available to all his employees. If one of the parties notices someone not using such equipment, it is the responsibility of that party to notify both the person, as well as his or her direct supervisor or site manager of such incident.
18. **CONSEQUENTIAL LOSSES**
- 18.1. Same as otherwise stated in these Terms and Conditions there shall be no liability for either party towards the other party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever.
19. **DISPUTES AND APPLICABLE LAW**
- 19.1. All disputes arising out of or in connection with the contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules.
- 19.2. The contract shall be governed by the substantive laws of Finland. Please of arbitration Helsinki, Finland.
20. **LEGAL NOTICE**
- 20.1. If individual provisions of this contract or these Terms and Conditions become invalid, this shall not affect the validity of the entire contract or Terms and Conditions. In this case, only that part deemed to be invalid of the Contract or terms and Conditions ceases to be enforceable.