

Putzmeister Iberica S.A. General Sales Conditions

I. SCOPE OF APPLICATION

1. The following terms and conditions apply to all deliveries and performances, regardless of whether the individual case is a sales contract or a contract for work and services or a contractual relationship of yet another nature.
2. These conditions of sale and delivery apply exclusively; terms and conditions of the purchaser that oppose or deviate from these shall not be recognized by the supplier, unless it has explicitly confirmed their applicability in writing. These conditions of sale and delivery are also applicable if the supplier, in awareness of the purchaser's terms and conditions that oppose or deviate from these, carries out the delivery or service to the purchaser without reservation.
3. These conditions of sale and delivery are also applicable for all future business with the purchaser, even if they are not explicitly agreed upon.

II. GENERAL PROVISIONS

1. These General Terms and Conditions form an inherent and inseparable part of the Contract between the CUSTOMER and PUTZMEISTER IBERICA (Seller) (hereinafter, "PMIB"). Even though express acceptance is not stated, the fact of placing a firm order and/or making an advance payment on account or a deposit in relation to a previously placed order implies the CUSTOMER's agreement herewith. These Terms and Conditions may only be amended following express written acceptance by PMIB, through its authorized staff, and they shall under no circumstances be entirely cancelled, with all those which are not contrary to those expressly accepted by PMIB remaining valid.
2. Data about dimensions, appearances, weights, output, consumption and other technical data included in the documents accompanying the offer are for information purposes only and are approximate values and shall not be binding, unless they are expressly designated as exact in the offer.
3. The contract of sale shall be perfected by PMIB's written acceptance of the CUSTOMER's order or by the partial or total delivery of the order.

III. PRICES

1. Prices are deemed to be ex-works Madrid, regardless of the place of shipment and/or delivery. Packaging shall in no event be included in the said prices, which must be increased by the applicable amount of VAT or any other tax which may replace it from time to time.
2. Engineer work, installation and commissioning will be billed separately. The billing may be calculated at either a flat rate or according to actual expenditure, plus travel costs, subsistence allowance and overnight expenses, overtime, surcharges for Sundays and public holidays.

IV. DELIVERY, PLACE, TERM, TRANSPORT

1. All goods shall always be deemed to have been delivered at PMIB's address, regardless of their place of shipment and/or delivery, and shall therefore always be transported at the purchaser's risk and expense, even when they are shipped freight prepaid.
2. Unless otherwise agreed, the delivery period shall commence when PMIB gives formal notice of the delivery period once it has received the firm order and all technical characteristics have been defined and the purchaser has complied with its obligations, if any; under no circumstances shall PMIB be liable for any possible loss or damage which may arise from any delay in delivery, especially if PMIB is prevented from complying with the said delivery period due to circumstances not attributable to it and which have a direct and/or provable effect on its compliance therewith. Such circumstances include events of force majeure beyond PMIB's control such as, without limitation, measures taken in connection with labor disputes, especially strikes and lockouts, and the occurrence of unforeseeable events such as delays in the supply of parts (including spare parts), raw materials and transport, provided they are within the supplier's (provider's) responsibility, or extreme adverse weather conditions.

3. Upon the CUSTOMER's request, PMIB shall proceed, in the CUSTOMER's name and on its behalf, to contract the transport to the place required by the CUSTOMER. Unless it receives written instructions to the contrary, PMIB shall normally choose the means of transport which is most competitive for the CUSTOMER.

4. PMIB reserves the right to perform partial delivery of an order if so justified by the specific circumstances.

5. The CUSTOMER shall check the condition of the goods at the time of delivery, and any objections regarding quantity and quality which it may deem fit must be made at that time.

6. PMIB shall deliver a full set of documents together with the purchased equipment and/or installation, where applicable. The PURCHASER is aware that the purchased equipment (where applicable) is complex equipment which must be handled in accordance with the manufacturer's instructions and/or recommendations. The CUSTOMER therefore undertakes to observe and comply with all technical and safety instructions contained in the relevant operation, working and maintenance manuals provided by PMIB, which the CUSTOMER expressly states that it is familiar with.

V. PAYMENT

1. Sales made before the CUSTOMER can be classified for a credit account shall always be carried out IN CASH upon delivery of the goods or upon provision of a service.

2. Save where expressly agreed otherwise, invoices to CUSTOMERS which have been classified and for which a credit account has been opened shall be payable within sixty (60) days from the date of invoicing.

3. The CUSTOMER assumes responsibility for the payments stipulated in the contract. In the event of any deferral, PMIB may demand, from the moment of each due but unpaid amount and/or delay in payment, that the CUSTOMER pay an additional 1.2% per month by way of interest on the due but unpaid amount or delayed payment. This is without prejudice to the fact that, if payment was deferred, failure to pay two installments or the last payment owed may result in the payments owed becoming due or in contract termination, with the effects provided for in Article 10 of Spanish Law 28/1998. In addition, the CUSTOMER may pay any deferred installments in advance, discounting the agreed deferral interest.

4. Any bill of exchange not met upon maturity must be paid immediately, accumulating any expenses arising therefrom, together with the corresponding late interest at a monthly rate of 1.2%.

5. The existence of an unpaid debt shall cause the CUSTOMER's account to be blocked immediately, and the said account shall not be re-activated until the outstanding amounts (principal plus interest) have been paid in full by the CUSTOMER.

6. The invoice shall specify amounts and due dates. Any error by PMIB must therefore be notified before the due date. If there is no notification in this regard, the said conditions shall be deemed to be known and accepted.

VI. RETENTION OF TITLE

1. PMIB shall retain title of the products being sold until full payment of the outstanding sums by the CUSTOMER.

2. The CUSTOMER shall be responsible for taking the necessary measures to preserve the purchased products in good condition

VII. WARRANTY

1. PMIB warrants the products for a period of twelve (12) months as of the date of delivery of the equipment, material and/or installation purchased. PMIB assumes the commitment to remedy, with all reasonably due diligence, the defects appearing in the equipment in relation to the functional specifications of same specified in the use and operating manuals, with exclusion of other requirements and/or responsibilities. Under this warranty, at its discretion, PMIB may proceed to repair, replace or pay, free of charge, for any part supplied by PMIB which may be unserviceable or prove noticeably unfit for use due to defective construction, sub-standard material or faulty execution, providing that:

a) PMIB is given reliable notice, within the fifteen (15) days following the time at which the alleged defect became known by the CUSTOMER, of the existence of this defect.

b) The CUSTOMER has fulfilled all the contractual obligations assumed.

c) The equipment, product and/or installation has been duly installed, started up and the recommended maintenance operations carried out, by authorized PMIB staff or by third parties expressly authorized by PMIB.

d) The CUSTOMER has not attempted to repair the faulty product himself or by means of a third party, or else replaced its parts, except with the prior express permission of PMIB.

2. The warranty does not cover the damage caused in parts and accessories by normal wear, particularly all those parts that come into contact with the material transported.

3. The warranty does not include the damage and/or troubles stemming from the following causes: improper or untrained use, faulty installation or start-up by the CUSTOMER or third parties authorized by the CUSTOMER, defective or careless handling (in particular, excessive loading, use of sub-standard fuels or consumables, and with inappropriate support, chemical, electro technical or electrical influences or troubles not attributable to the equipment).

4. The warranty does not include the consequences stemming from inappropriate alterations or repair jobs carried out by the CUSTOMER or third parties commissioned by the latter without prior PMIB authorization, irrespective of the effects that may arise in respect of the contract as a result of the infringement of the terms thereof.

5. The warranty shall cover the labor and materials expenses for the replacement of faulty parts, barring the travel expenses (travelling time, Km., air fares, customs duties...) which shall be invoiced in accordance with the PMIB customer service rates and terms and conditions in force at the time.

6. The warranty does not include the costs generated by the shipment of replacement parts or by the dispatch by the CUSTOMER of the faulty part.

7. The use of non-original spares automatically cancels every warranty over the equipment, product and/or installation and discharges PMIB of all public liability over the product.

8. The warranty will not cover those products that do not bear the nameplates or identifying marks present at the time of delivery.

9. PMIB liability is confined to upkeep maintenance during the warranty period, which is of 12 months, irrespective of the fact that any defect may have been remedied or repaired during that period.

10. PMIB will not assume liability for possible costs that stem from breakdowns or may give rise to downtimes, nor will it assume any kind of compensation for damages, losses of perishable material, replacement costs for faulty machinery, etc.

11. Any request for warranties shall be processed through the After-Sales Department, after completion of the respective Warranty Claim Form, accompanied necessarily by the due arguments and whatsoever graphic evidence and reports may be possible.

12. Every part that the CUSTOMER considers subject to cover under warranty should be claimed through the After-Sales Department and not directly through the Spares Department. Such material will be invoiced to him in the first instance, although the PMIB After-Sales Department undertakes to deal with such a claim within a period of not more than two months, so that, if accepted, payment for the part will be made in the shortest time possible.

13. In the event of the aforementioned troubles arising not covered by warranty and the CUSTOMER requesting their remedy or repair, PMIB will invoice such jobs, in accordance with current customer service rates, for the time employed for this purpose.

VIII. LIABILITY

1. The CUSTOMER shall be solely liable for any loss or damage which may be caused by its use of the purchased equipment, material and/or installation. The CUSTOMER shall be responsible for taking all necessary measures to prevent any loss or damage which may arise from the use of the purchased equipment, material and/or installation, and PMIB shall not be liable for any such damage. PMIB shall not be liable for any loss or damage arising from the CUSTOMER's use of the machine, regardless of the legal grounds therefor.

2. In the event that PMIB has to provide compensation and/or redress as a result of a final judgment, or arbitration award where applicable, by reason of the use of the Product or any other reason relating to this contract, the compensation to be paid to the CUSTOMER may in no event exceed the product, equipment and/or installation price actually received by PMIB. Notwithstanding the foregoing, the above compensation may in no event exceed SEVEN HUNDRED AND FIFTY THOUSAND EUROS (750,000).

3. PMIB may not be held liable under this Contract or under any ancillary Contract, Annex or Addendum for any loss of income or profit (loss of earnings) or for any indirect, consequential or derived loss or any other type of damage, including any resulting from breach of contract, negligence or any other wrong.

IX. RETURN OF MATERIALS

Any return must be previously consulted with, and expressly approved by, PMIB, and must be mandatorily made within fifteen (15) calendar days following the date of delivery. Any such return shall be made, if applicable, with freight prepaid by the CUSTOMER. If appropriate in each specific case, after the appropriate credit note has been issued, it will be deducted from the following invoice of the CUSTOMER for the same or a higher amount, if there is one.

X. DOCUMENTATION

1. PMIB retains full ownership and title of all its drawings supplied to the CUSTOMER for information purposes, and their use shall be generally forbidden for any individual or legal entity outside the company.

2. In the performance of this contract, the CUSTOMER may receive proprietary information from PMIB. This shall continue to be deemed to be the sole property of PMIB and its confidentiality shall be maintained and protected. The CUSTOMER shall refrain from using PMIB's proprietary information for any purposes other than the performance of this Contract. The proprietary information may include, without limitation, trade secrets, processes, drawings, formulae, specifications, products, software packages, technical know-how, and operating methods and procedures.

3. The CUSTOMER expressly acknowledges that all industrial and intellectual property rights there may be on the equipment, installations and/or other supplies relating to this contract, and any associated documentation, belong solely to PMIB. The CUSTOMER undertakes, and acquires the obligation, to refrain from directly or indirectly registering any Products with similar functionality to those forming the subject matter of this Contract. Any such actions shall, independently of any criminal liability which may result therefrom, entitle PMIB to compensation.

XI. EXPORT CONTROLS

The purchaser must advise the supplier in writing as soon as possible, but not later than two weeks before the delivery deadline, of all information and data required by the supplier in order to comply with the applicable foreign trade legislation and for licenses, provided that their procurement is the responsibility of the supplier according to the contract. Furthermore, the supplier can demand such information at any time. In the case of alterations, the purchaser shall update this data, particularly the export control and foreign trade data, as early as possible, but not later than one week before the delivery date, and shall advise the supplier of this in writing. The purchaser shall bear any expenses and damages incurred by the supplier due to the absence, defectiveness or late receipt of the data.

XII. COMPLIANCE

The purchaser undertakes that it and its partners, managing directors, supervisory and advisory boards, employees and other representatives comply with legal regulations and in particular shall act preventatively against any kind of criminal or reprehensible misconduct in the course of its business operations in the context of this contract

XIII. PROHIBITED DEALINGS

The purchaser undertakes that it and its partners, managing directors, supervisory and advisory boards, employees and other representatives shall refrain from the following dealings with the supplier's goods in all cases:

- Dealings with persons, organizations or institutions that are named on a sanctions list according to EC or EU regulations or US export provisions;

- Dealings with customers in countries under embargo, which are prohibited;
- Dealings for which the required license is not present; and
- Dealings that in particular may have a connection with nuclear, biological or chemical weapons or a military end-use.

If the purchaser contravenes this obligation, the supplier is within its rights to withdraw immediately from the contractual agreement or claim compensation at its discretion.

XIV USE OF SOFTWARE

To the extent that software is included in the scope of the delivery, the client shall be granted a non-exclusive right to use the supplied software, including its documentation. It is released for use on the object of the delivery intended for this purpose. The use of the software on more than one system is prohibited.

All other rights to the software and the documentation, including the copies, remains with the supplier or the software supplier. The granting of sub-licenses is not permissible.

XV. JURISDICCION

This contract is governed by the Laws and Regulations of Spain, regardless of the customer's nationality and the place of delivery of the good supplied. To that end, PMIB and the CUSTOMER, expressly waiving any other jurisdiction which might otherwise apply to them by reason of their domicile or nationality or the place of performance of this contract, submit to the jurisdiction and authority of the Courts and Judges of Madrid (Spain) for any actions and claims that may arise from the performance and interpretation of the contract.

Data Protection Clause

In compliance with the provisions of the General Data Protection Regulation (hereinafter, GDPR) and in Organic Law 3/2018, we inform you expressly, precisely and unequivocally that the data provided by you, as well as those that are generated during their relationship with our entity, they will be incorporated and treated in the files responsibility of PUTZMEISTER IBÉRICA SA (hereinafter, PMIB), with the purpose of maintaining and complying with the entity-client relationship and providing services derived from it, including the sending of communications and informative circulars of interest to the client within the framework of the aforementioned relationship.

The consent will be understood as provided as long as you do not communicate the revocation in writing. The owner of the data undertakes to communicate in writing to PMIB, any modification that occurs in the data provided. Likewise, your data will be transferred in all those cases in which it is necessary for the development, compliance and control of the relationship between entity and client, and provision of services derived from it or in the cases in which it is authorized by a rule within the rank of law.

You may at any time exercise the right of access, rectification, cancellation / deletion, opposition, limitation or portability in the terms established in the GDPR, at the following address: C. Camino de Hormigueros, 173, 28031, Madrid, attaching a copy of your ID. If you consider that the processing of your personal data violates the regulations or your rights, you can file a claim with PMIB, or with the Spanish Agency for Data Protection, through its electronic headquarters, or your postal address:

Spanish Agency for Data Protection.
C / Jorge Juan, 6. 28001 - Madrid
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