

# UAB „Peikko Lietuva“:

## General Terms & Conditions Of Supply 2016



These general terms and conditions of supply ("General Terms & Conditions") apply for the supply of Products by the Seller to the Buyer.

### 1. Definitions and interpretation

1.1. The following capitalized words in these General Terms & Conditions shall have the following meanings:

- (a) "Agreement" means an agreement between the Seller and the Buyer for the supply of the Products. These General Terms & Conditions are an integral part of the Agreement;
- (b) "Buyer" means any legal or natural person that wishes to conclude, concludes or has concluded Agreement with the Seller for the supply of the Products by the Seller to the Buyer, as well as any legal or natural person to which the Seller supplies or has supplied Products;
- (c) "Group Company" means Peikko Group Corporation, a Finnish entity (the Business ID 0641926-7), or any subsidiary of Peikko Group Corporation;
- (d) "Party" or "Parties" means, respectively, the Buyer or the Seller individually or collectively;
- (e) "Products" means the products supplied by the Seller to the Buyer pursuant to the Agreement;
- (f) "Seller" means UAB „Peikko Lietuva“, a company established under the laws of the Republic of Lithuania, company No. 300512612, registered office at R. Kalantos g. 49, Kaunas, Lithuania; and
- (g) "Site" means construction or other site specified in the Agreement.

1.2. Any typographical, clerical or other error or omission in the Agreement, sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller or Group Company shall be subject to correction without any liability on the part of the Seller.

1.3. The applicability of general terms and conditions used by the Buyer or any other general terms and conditions is expressly ruled out.

1.4. The text of the main body of the Agreement shall prevail over these General Terms & Conditions in the event of a conflict.

1.5. Trade terms shall be interpreted according to the latest edition of Incoterms.

1.6. "In writing" or "written" includes email.

### 2. Prices

2.1. All prices are, unless otherwise expressly agreed, Ex Works prices exclusive of VAT, the costs of transporting and other costs incurred in connection with delivery.

2.2. The Seller shall be entitled at all times to change its prices, on condition that prices already agreed may be changed only if the cost-determining factors on which the prices are based have changed since the Agreement was concluded and prior to delivery. Such cost-determining factors include without limitation raw material prices, labour costs, social security costs, taxes (including VAT and other government levies), import and export duties and exchange rates.

2.3. Unless otherwise expressly agreed, the price for the supply of the Products shall be paid by the Buyer in advance prior to their delivery.

2.4. Where the Products are delivered by instalments the Seller may invoice each instalment separately.

2.5. In the event of default in payment by the Buyer, the Seller shall be entitled without prejudice to any other right or remedy to:

- (a) Suspend manufacturing of Products, all further deliveries or any agreement, contract or contracts between the Seller and the Buyer without notice;
- (b) Prohibit the fixing or installation of the Products at the Site, and may, at the Buyer's expense, repossess the Products already supplied to the Buyer;
- (c) Charge late payment interest on any amount outstanding at the rate of 0.05% per day;
- (d) Charge the Buyer all costs of the debt recovery procedure, including but not limited to the attorney's and debt collection agency's fees and costs of legal proceedings.

2.6. The Buyer shall make all payments due under the Agreement without any deduction whether by way of set-off, withholding, counterclaim, discount abatement or otherwise.

### 3. Transfer of ownership

3.1. The ownership to the Products shall be transferred to the Buyer when the price of the Products has been paid and the payment received in full.

3.2. The Buyer is prohibited from pledging the Products that are in its possession, but which are still the property of the Seller.

### 4. Transfer of risk

4.1. The risk in Products shall pass to the Buyer at the delivery point in accordance with the relevant Incoterm or if no Incoterm or other trade term has been agreed, when the Products are handed over to the first carrier for delivery to the Buyer.

### 5. Delivery of the products

5.1. Unless otherwise expressly agreed, the Products shall be delivered FCA UAB „Peikko Lietuva“ factory Kaunas.

5.2. The Seller shall have a right to make delivery by instalments.

5.3. The date of delivery shall in every case be dependent upon prompt receipt of all necessary information, final instructions or approvals from the Buyer. Alterations by the Buyer in design specifications or quantities required may result delay in delivery.

5.4. The Seller will endeavour to comply with reasonable requests by the Buyer for postponement of delivery but shall be under no obligation to do so. Where delivery is postponed otherwise than due to default by the Seller the Buyer shall pay all direct and indirect costs and expenses including a reasonable charge for storage and transportation occasioned thereby and the Seller shall be entitled to invoice the Products in accordance with the Agreement.

### 6. Delay in delivery

6.1. If the delivery cannot be completed either partially or in its entirety, or if the Product delivery cannot be received according to the agreed time schedule, or if it appears likely that this kind of delay will occur, the Party shall immediately inform the other Party.

6.2. Either Party, upon receiving knowledge of any delay, shall immediately provide written notification explaining the reasons for the delay as well as a new delivery date.

6.3. In case of delay in delivery that is fault of the Seller, the Buyer shall be entitled to receive liquidated damages at the rate of 0.5% of the purchase price of the delayed Products for each full week of delay, however, not for more than for ten full weeks.

6.4. If the Seller has not delivered the Products by the date when the Buyer has become entitled to the maximum amount of liquidated damages under clause 6.3, the Buyer may give a notice in writing to terminate the Agreement, if the delayed Products have not been delivered within 14 days of receipt of such notice by the Seller.

6.5. Unless the Seller has acted intentionally or grossly negligently in breach of the Agreement, the remedies under clauses 6.3 and 6.4 are exclusive of any other remedy for delay in delivery or non-delivery. For the avoidance of doubt; the remedies specified in clauses 6.3 and 6.4 form an upper limit of the liability of the Seller. Additional claims for damages are therefore expressly excluded.

### 7. Responsibility for defects

7.1. The Seller shall be responsible for defects in the Products that have been present in them at the time of transfer of risk to the Buyer, even if the defect is detected later. The Buyer may not place a claim on a defect in the Products if the Buyer has not notified the Seller of the defect within a reasonable time following the detection of the defect, or following an inspection of the Products in which the defect should reasonably have been detected.

7.2. The Seller shall, upon a receipt of the Buyer's defect notification, immediately at its own expense, either repair the defect for which it is liable or carry out a replacement delivery.

7.3. The Buyer will be entitled to the liquidated damages as quantified under clause 6.3 for each complete week of delay between the date of the defect notification and repair or replacement delivery under clause 7.2. For the avoidance of doubt; the liquidated damages are calculated from the purchase price of the defective Products.

7.4. If the Seller has failed to perform its duties under clause 7.2 by the date on which the Buyer becomes entitled to the maximum amount of liquidated damages according to clause 6.3 and 7.3, the Buyer may give notice in writing to terminate the Agreement, unless the supply of replacement or the repair is effected within 14 days of receipt of such notice by the Seller.

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7.5. Unless the Seller has acted intentionally or grossly negligently in breach of the Agreement, the remedies under clauses 7.2 to 7.4 are exclusive of any other remedy of defective delivery. For the avoidance of doubt; the remedies specified in clauses 7.2 to 7.4 form an upper limit of the liability of the Seller due to defective delivery. Additional claims for damages are therefore expressly excluded.

### 8. Changes

8.1. If procurement plans or building designs are altered, and if these alterations cause increase in expenses or delivery schedules, the Seller shall be entitled to receive additional compensation from the Buyer for this increase. If changes result in modifications to delivery schedules, the Seller shall have the right to receive additional time according to mutual agreement.

### 9. Inspection

9.1. When the Products have arrived at the Site, the Buyer shall perform a visual inspection. Quality flaws detected in visual inspections shall be photographed and immediately noted in writing, photos attached.

9.2. Prior to the fixing or installation at the Site the Buyer shall again perform an adequate inspection of the Products. Errors and omissions detected only when the delivered Products are being fixed or installed or when their parts are being connected to each other shall be announced immediately in writing by the Buyer.

9.3. The Seller shall have a right to conduct an inspection at the Site, and minutes shall be drawn on this inspection at the request of either Party.

### 10. Rights To Intangibles

10.1. All drawings, designs, specifications and other technical documentation that the Parties have assigned to each other before or after the conclusion of the Agreement shall remain the property of the assignor. The recipient may not use, duplicate, or reproduce the documents, nor may reveal their contents to any third party without the express written consent of the assignor. Documents shall be returned at the request of their assignor.

10.2. Where any designs or specifications have been supplied by the Buyer for manufacture of the Products then the Buyer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Products shall not infringe the rights of any third party.

### 11. Warranty

11.1. The Seller warrants to the Buyer that the Products shall materially conform to the specifications set forth in the Agreement and will be free from material defects in material and workmanship for the period of 36 months after their delivery, however, not exceeding the Buyer's period of warranty responsibility.

11.2. The Seller's liability shall not extend to defects resulting from ordinary use or negligence found to be the responsibility of the Buyer. The warranty does not apply to the anti-corrosion coat if it was damaged (broken, scratched, etc.) after the delivery of the Products. The Buyer must correct such defects at its own expense.

11.3. The Buyer shall immediately notify the Seller regarding such defects or omissions for which the Seller may be held responsible pursuant to the Seller's warranty set forth in clause 11.1.

11.4. The Seller, upon receiving a notification, shall be obliged to immediately rectify, at its own expense, any defects or omissions in the Products detected during the warranty period.

11.5. If the Seller, despite having received written notification from the Buyer, neglects to fulfil its warranty obligations within a reasonable time, the Buyer shall have the right to correct the defect or have the defect repaired at the Seller's expense. The Buyer shall, before correcting a defect or carrying out a replacement order, inform the Seller of these actions in writing.

11.6. The remedies set forth in 11.3 to 11.5 shall be the Buyer's sole and exclusive remedy and the Seller's entire liability for any breach of warranty set forth in 11.1.

11.7. Save as otherwise provided in clause 11.1, warranties, conditions and other terms implied by the Civil Code of the Republic of Lithuania are excluded to the fullest extent permitted by law.

### 12. Liability

12.1. Save as otherwise provided in these General Terms & Conditions, the Seller shall have no liability to the Buyer for any matters which are outside its reasonable control.

12.2. To the fullest extent permitted by law, the Seller shall have no liability to the Buyer for any:

- (a) Direct or indirect loss of profit of the Buyer or any other indirect or consequential damages, or any other losses of speculative or unforeseeable nature;
- (b) Damage to goodwill;
- (c) Economic and/or other similar losses;
- (d) Damage to property;
- (e) Dismantling costs;
- (f) Business interruption, loss of business, contracts, opportunity and/or production;
- (g) Any other indirect or consequential loss or damage.

12.3. The Seller shall not be held liable for defects caused by construction that has not been designed and built in accordance with sound design, construction, and installation practices, nor shall the Seller be held liable for defects resulting from improper use of the Products or improper adherence to operating instructions.

12.4. The Buyer shall be under a duty to mitigate any loss, damage, costs or expenses that it may suffer.

12.5. The Seller's total liability for the Buyer for any loss, damage, costs or expenses shall not exceed the total purchase price of all the Products in respect the Seller is in default.

12.6. Nothing in this clause shall exclude or limit the Seller's liability which is due to the fraud, intentional misconduct or gross negligence by the Seller.

12.7. The price of the Products has been calculated on the basis that the Seller shall exclude or limit its liability as set out in these General Terms & Conditions and the Buyer by entering into the Agreement agrees and warrants that the Buyer shall insure against or bear itself any loss for which the Seller has excluded or limited its liability and the Seller shall have no further liability to the Buyer or its insurer.

### 13. Confidential information

13.1. The Buyer agrees that it will keep confidential and not use except for purposes contemplated in the Agreement, all information relating to the Products and/or services provided and all confidential business information regarding the Seller or Group Company which may be disclosed to the Buyer or which it may learn except where such information is in public knowledge or is required to be disclosed by law.

### 14. Force majeure

14.1. A Party shall not be considered liable for default on the entire Agreement or a part thereof, in the case the Party proves that such default is the result of force majeure circumstances which were beyond the Parties' control, and could not be reasonably anticipated, avoided or eliminated by any means. Force majeure circumstances shall be the circumstances specified in Article 6.212 of the Civil Code of the Republic of Lithuania and the Procedures for Release from Liability in Case of Force Majeure Circumstances, as approved with Resolution No. 840 as of 15 July 1996 by the Government of the Republic of Lithuania. The circumstances shall be documented as required under the above legal acts.

14.2. A Party shall notify the other Party of force majeure circumstances in writing right after their occurrence, however, within the period of three business days. The circumstances provided for in the notification shall be approved with a certificate issued by a competent institution.

14.3. If force majeure circumstances last for more than three months, either of the Parties shall be entitled to terminate the Agreement by giving written notice to the other Party.

14.4. Fire, flooding, theft or similar events shall not be considered as force majeure if it has been caused by the acts or negligence (failure to act) of the Buyer or if a third person is liable for such events to the Buyer.

### 15. Assignment, subcontracting

15.1. The Seller may assign, subcontract, or transfer the Agreement or any part of it to any Group Company.

## **16. Termination of the Agreement**

16.1. If either Party (a) commits a substantial breach of the Agreement or (b) is in such a financial condition that there exists justifiable reasons to doubt the Party's ability to perform its contractual obligations, the other Party shall have the right to terminate the Agreement with immediate effect.

## **17. Anti-bribery**

17.1. Neither Party nor their subcontractors, officers, directors, employees, direct or indirect beneficial owners or shareholders, or any other party acting on behalf of Party will, directly or indirectly, pay, offer, promise to pay or authorise the payment of, any monies or financial or other advantage in violation of applicable anti-corruption laws.

## **18. Applicable law, dispute settlement**

18.1. The Agreement is governed by the laws of the Republic of Lithuania.

18.2. All disputes arising out of or in connection with the Agreement shall be settled, if possible by friendly negotiation and in good faith by the Parties. If settlement cannot be reached by negotiation within thirty (30) days, any such disputes the value of which does not exceed EUR 300,000 shall be settled by the competent court in Vilnius, Lithuania.

18.3. Any dispute, arising out of or relating to the Agreement, value of which exceeds EUR 300,000 shall be finally settled by arbitration in the Vilnius Court of Commercial Arbitration in accordance with its Rules of Arbitration.

18.4. Notwithstanding clauses 18.2 and 18.3 the Seller shall, however, be entitled to lodge claims concerning the collection of outstanding debts in connection to the Agreement in any court having jurisdiction over the Buyer.

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## Revisions:

Version:	Published and effective since:	
1.0	2016	
1.1	2020-04-14	Clause 14; Covid-19 clause (14.5) added.
1.2	2023-05-03	Clause 14; Covid-19 clause (14.5) deleted.