

Terms and Conditions of Sale

Products furnished and services rendered by Pfeiffer Vacuum are sold only on the terms and conditions stated herein. Notwithstanding any terms and conditions on Buyer's order, Pfeiffer Vacuum's performance of any contract is expressly made conditional on Buyer's agreement to Pfeiffer Vacuum's Terms and Conditions of Sales unless otherwise specifically agreed to in writing by Pfeiffer Vacuum. In the absence of such agreement, commencement of performance and/or delivery shall be for Buyer's convenience only and shall not constitute an acceptance of Buyer's terms and conditions. If the parties have not previously entered into a written contract, acceptance of any Product or service shall be deemed acceptance of the Terms and Conditions stated herein. These terms and conditions shall apply to all Products furnished and Services rendered by Pfeiffer Vacuum to Buyer except as expressly modified with the written agreement of Pfeiffer Vacuum.

1. Orders

All orders are subject to acceptance by Pfeiffer Vacuum, with acceptance becoming effective upon receipt by the Buyer of Pfeiffer Vacuum's written Order Acknowledgment.

2. Quotations and Prices

All quotations are subject to the terms and conditions stated herein as well as any additional terms and conditions that may appear within Pfeiffer Vacuum's quotation or proposal form. In the case of a conflict between the terms and conditions stated herein and those appearing within Pfeiffer Vacuum's quotation or proposal form, the terms and conditions on the face of Pfeiffer Vacuum's quotation or proposal form shall control.

3. Pfeiffer Vacuum's prices and quotations are subject to the following:

- a. All Published prices are subject to change without prior notice
- b. Unless otherwise specified in writing, all quotations constitute offers, and are valid for and expire thirty (30) days after the date the quotation is issued or until revoked or revised, whichever is sooner; provided that budgetary quotations and estimates, indicated as such on the quotation, are for preliminary information only and shall neither constitute offers, nor impose any responsibility or liability upon Pfeiffer Vacuum.
- c. All shipments will be billed at the prices in effect on the date of acceptance of Buyer's order, unless Buyer notifies Pfeiffer Vacuum of cancellation before Pfeiffer Vacuum begins filling said order.
- d. Unless otherwise stated by Pfeiffer Vacuum in writing, all prices quoted shall be exclusive of transportation, insurance, taxes, (including without limitation, any use tax, sales tax, excise or similar tax), license fees, customs fees, duties, and other charges related thereto, and Buyer shall report and pay any and all such shipping charges, premiums, taxes, fees, duties and other charges related thereto in a timely manner, and shall hold Pfeiffer Vacuum harmless therefrom.
- e. Stenographical, typographical, and/or clerical errors are subject to correction.
- f. Unless expressly agreed to in writing by Pfeiffer Vacuum, prices quoted are for Products contained in normal domestic commercial packaging. Quoted prices do not include technical data, proprietary rights of any kind, patent rights, qualification, environmental or anything other than Pfeiffer Vacuum's standard tests.
- g. Published weights and dimensions are approximate only. Certified dimension drawings can be obtained upon request. Manuals, programs, listings, drawings, or other documentation required must be referenced specifically, and will be the latest applicable version.
- h. The start date of the delivery term is the date of Pfeiffer Vacuum's order acceptance as indicated in the written order acknowledgment.
- i. Quoted delivery dates are those in effect on the date of the quotation and are subject to change without prior notice.
- j. In the event that Pfeiffer Vacuum's cost of production of the goods increases by five percent (5%) or more for reasons beyond Pfeiffer Vacuum's control, Pfeiffer Vacuum may by written notice increase the price for such goods in an amount not to exceed the actual increase in Pfeiffer Vacuum's cost of production. In the event that Pfeiffer Vacuum increases its price by more than ten percent (10%), customer may cancel the relevant purchase order free of charge by giving written notice to Pfeiffer Vacuum's within two (2) weeks of customer's receipt of Pfeiffer Vacuum's notice. On written request, Pfeiffer Vacuum will furnish customer with documentation of the increased costs of production.

4. Terms of Payment

Unless credit is granted, payment is due upon delivery. All payments for Products released and shipped on approved credit accounts shall be due in full thirty (30) days from date of invoice therefor. Absent written agreement to the contrary, payment shall be in U.S. dollars. Past due balances shall be subject to a service charge of 1% per month (12% per annum), or the maximum rate allowed by law, whichever is less. Any such interest shall accrue and be payable in addition to any other rights and/or remedies available under the Terms and Conditions of Sale or otherwise provided by law. Partial shipments will be billed on a prorated basis as made and payments therefore are subject to the above terms. Payments shall not be withheld for delay in delivery of required documentation unless a separate price is stated therefore, and then only to the extent of the price stated for such undelivered documentation. Pfeiffer Vacuum may cancel or delay delivery of Products in the event Buyer fails to make prompt payment for any products previously delivered. Pfeiffer Vacuum reserves a purchase money security interest in all of the materials referenced herein in the amount of the purchase price. That interest will be satisfied once Buyer has made payment in full. A copy of this Terms and Conditions of Sale (along with any form of written acceptance) along with a UCC 1 Financing Statement may be filed on Pfeiffer Vacuum's behalf with appropriate state authorities at any time in order to protect Pfeiffer Vacuum's security interest. Buyer further agrees to execute – in a timely manner – any necessary paperwork so as to perfect Pfeiffer Vacuum's security interest.

5. Transportation and Risk of Loss

Shipping terms are FCA (Incoterms 2010) Pfeiffer Vacuum's facility. Unless otherwise agreed to in writing by Pfeiffer Vacuum, all transportation shall be at the expense of Buyer. Pfeiffer Vacuum reserves the right to ship Products and to select the means of transportation and routing. Unless otherwise advised, Pfeiffer Vacuum may, but is not obligated to, insure at full value of the Products or declare full value thereof to the transportation company at the time of delivery and all such freight and insurance costs shall be for Buyer's account. Title and risk of loss or damage shall pass to Buyer upon delivery of the Products to the transportation company at the FCA point, whether or not installation is provided by or under the supervision of Pfeiffer Vacuum. Confiscation or destruction of, or damage to Products shall not release, reduce, or in any way affect the liability of Buyer therefor. Notwithstanding any defect or nonconformity, or any other matter, such risk of loss shall remain with Buyer until the Products are returned at Buyer's expense to such place as Pfeiffer Vacuum may designate in writing. Buyer, at its expense, shall fully insure Products against all loss or damage until Pfeiffer Vacuum has been paid in full therefor, or the Products have been returned, for whatever reason, to Pfeiffer Vacuum in their original condition. All Products must be inspected upon receipt and claims should be filed immediately with the transportation company when there is evidence of damage, either concealed or external. As used in the clauses appearing herein or attached hereto, "delivery" shall occur when Products are delivered at the FCA point, which shall be the point of manufacture or such other place, as Pfeiffer Vacuum shall specify in writing, notwithstanding installation by or under the supervision of Pfeiffer Vacuum.

6. Performance

Pfeiffer Vacuum shall not be liable in any way as a result of any delay in performance hereunder due to unforeseen circumstances or to causes beyond its control, including, without limitation, strike, lockout, riot, war, fire, act of God, accident; failure or breakdown of components necessary for order completion; subcontractor, supplier or Buyer caused delays; inability to obtain labor, materials or manufacturing facilities; or compliance with any law, regulation or order, whether valid or invalid, of any competent governmental body or any instrumentality thereof whether now existing or hereafter created. Performance shall be deemed suspended during and extended for such time as any such circumstances or causes delay its execution. Whenever such circumstances or causes have been remedied, Pfeiffer Vacuum will make and Buyer shall accept performance hereunder. In addition, Pfeiffer Vacuum's inventories and current production must be allocated so as to comply with applicable Government regulations. In the absence of such regulations, Pfeiffer Vacuum reserves the right, in its sole discretion, to allocate inventories and current production and substitute suitable materials when, in its opinion, such allocation or substitution is necessary due to any such circumstances or causes. In the case of such allocation and/or substitution, Buyer shall hold Pfeiffer Vacuum harmless, and no penalty clauses and/or other liability shall apply. As used herein, "performance" includes, but is not limited to, fabrication, shipment, delivery, assembly, installation, testing and warranty repair or replacement, as applicable.

7. Acceptance

Each Product furnished by Pfeiffer Vacuum shall be deemed accepted by Buyer unless notice of defect or nonconformity is received within thirty (30) days of delivery (as defined in subsection (h), above). However, products that Pfeiffer Vacuum agreed in writing to install using its own personnel shall be deemed accepted by Buyer upon completion by Pfeiffer Vacuum of its applicable acceptance tests or execution of Pfeiffer Vacuum's acceptance form by Buyer. Notwithstanding the foregoing, use of any such Pfeiffer Vacuum-installed and/or customized Product by Buyer, its agents, employees, or licensees, for any purpose after delivery thereof, shall constitute acceptance of the Product by Buyer, irrespective of whether the testing process has been completed Buyer understands that Pfeiffer Vacuum initially qualifies all Products at its factory prior to shipment so as to ensure that said Products meet applicable performance

and quality standards. The Buyer may witness this factory testing, which is based on functional performance of the individual subassemblies and components and the integrated equipment. Pfeiffer Vacuum reserves the right to modify, substitute, and/or add components or other equipment as necessary so as to satisfy Buyer's needs. Measured parameters are defined by the performance specification for each subassembly or component, based upon industry standards and/or as agreed upon by Buyer and Pfeiffer Vacuum. These procedures will also be performed at the Buyer's installation site prior to final acceptance, if agreed upon in advance in writing by Pfeiffer Vacuum.

8. Cancellation

Whenever Pfeiffer Vacuum accepts an order for any catalog-listed Product, and Buyer terminates said order prior to delivery Pfeiffer Vacuum shall assess a cancellation charge of not less than fifteen percent (15%) of the order value to cover costs of processing and order handling; cancellation and return of Product within thirty (30) days after delivery shall be subject to a charge of not less than twenty-five percent (25%) of the order value; no such order may be terminated after thirty (30) days except by mutual written agreement of the Parties. Before any Products may be returned to Pfeiffer Vacuum due to such termination, Buyer must obtain written authorization from Pfeiffer Vacuum or its authorized representative for such return, and specific instructions as to how and where these Products should be returned. Any Product returned to Pfeiffer Vacuum shall be undamaged and salable, and shall be sent prepaid via the means of transportation indicated as acceptable by Pfeiffer Vacuum in the written return authorization. No order for any non-catalog or non-standard products may be cancelled by Buyer except by mutual agreement in writing. Cancellations by mutual agreement are subject to the following conditions: (1) Buyer will pay, at applicable contract prices, for all Products which are completely manufactured and allocable to Buyer at the time of Pfeiffer Vacuum's receipt of notice of cancellation; (2) Buyer will pay all costs, direct and indirect, which have been incurred by Pfeiffer Vacuum with regard to Products which have not been completely manufactured at the time of Pfeiffer Vacuum's receipt of notice of cancellation plus a prorated portion of normal profit on the contract; (3) Buyer will pay a cancellation charge on all Products affected. Pfeiffer Vacuum's normal accounting practices shall be used to determine costs and other charges. To reduce cancellation charges, Pfeiffer Vacuum will divert completed parts, material or work in process from cancelled contracts to other customers whenever, in Pfeiffer Vacuum's sole discretion, it is practicable to do so.

9. Confidential and Proprietary Information

The Buyer agrees not to disclose to any person outside of its employ any confidential and/or proprietary information which may be disclosed to it relating in any way to any Pfeiffer Vacuum Products Upon termination of any order or relations between the parties, Buyer shall return to Pfeiffer Vacuum, upon Pfeiffer Vacuum's request, all drawings, descriptions, and/or other material received from Pfeiffer Vacuum and all other materials containing confidential information relating to the Products. Buyer shall not allow persons outside of its employ to inspect such portions or components of the Products identified by Pfeiffer Vacuum to be confidential or proprietary without Pfeiffer Vacuum's prior written consent.

The Buyer understands and agrees that Pfeiffer Vacuum manufacture of the product(s) is the result of extensive proprietary research and development on Pfeiffer Vacuum's part and that Pfeiffer Vacuum utilizes the technology incorporated into the product(s) in a wide variety of applications with many purchasers. The Buyer has a right to disclose information relating solely to Buyer-specified modifications of the product(s), which do not reveal in any way protected information relating to the design or operation of the product(s). This limited right shall in no way limit Pfeiffer Vacuum's rights to continually modify or alter the product(s) and to develop or market the underlying technology to other customers, including Buyer's actual or potential competitors.

10. Warranty

Any warranty contained herein shall be to the original Buyer only, and may not be assigned or transferred to any third party. Products manufactured by Pfeiffer Vacuum are warranted against defects in materials and workmanship for twelve (12) months from date of shipment thereof to Buyer, and Pfeiffer Vacuum's liability under valid warranty claims is limited, at the option of Pfeiffer Vacuum, to repair, replacement, or refund of an equitable portion of the purchase price of the Product. Pfeiffer Vacuum shall have no liability for any defect in material or workmanship unless notice of such defect is received by Pfeiffer Vacuum within twelve (12) months from the date of shipment. Items consumed in normal use are not covered by this warranty. All warranty replacement or repair of parts shall be limited to Product malfunctions which Pfeiffer Vacuum reasonably determines are due to defects in original materials or workmanship. All of Pfeiffer Vacuum's obligations under this warranty shall cease in the event of abuse, accident, alteration, misuse, or neglect of the Product. In-warranty repaired or replacement parts are warranted only for the remaining unexpired portion of the original warranty period applicable to the repaired or replaced parts. After expiration of the applicable warranty period, Buyer shall be charged at prevailing market prices for parts, labor, and transportation.

The Buyer understands and acknowledges that the Products may require installation in carefully controlled and monitored operating environments and that properly trained or skilled personnel will be required in order to achieve proper performance from the Products. Pfeiffer Vacuum expressly disclaims any responsibility for loss or damage caused by the installation of use of its Products by the Buyer other than in proper operating environments and in accordance with proper operating procedures.

Warranties given by suppliers of equipment or proprietary components not manufactured by Pfeiffer Vacuum but incorporated by Pfeiffer Vacuum into its Products shall be passed on to Buyer, provided that in no event shall Pfeiffer Vacuum be liable for failure of any such supplier to perform on its warranty.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE

11. Warranty Claim Procedures

All claims under warranty should include the Product serial number, the date of shipment, and a full description of the circumstances giving rise to the claim. Before any Products are returned for repair and/or adjustment, Buyer must obtain written authorization from Pfeiffer Vacuum or its authorized representative for the return, and instructions as to how and where the Products should be returned. Any Product returned to Pfeiffer Vacuum for examination shall be sent prepaid via the means of transportation designated by Pfeiffer Vacuum. Pfeiffer Vacuum reserves the right to reject any warranty claim not promptly reported and any warranty claim on any item that has been altered or has been returned by non-acceptable means of transportation. When a Product is returned for examination and inspection, or for any other reason, Buyer shall be responsible for all damage resulting from improper packing or handling, and/or for loss in transit, notwithstanding any defect or non-conformity in the Product. In all cases, Pfeiffer Vacuum will be solely responsible for determining the actual cause and nature of failure, and Pfeiffer Vacuum's determination with regard thereto shall be final. Any Products returned to Pfeiffer Vacuum, for whatever reason, must be free from hazardous substances including, but not limited to, corrosive, radioactive, or toxic substances.

If it is determined that Pfeiffer Vacuum's Product has been returned without cause and is not defective, Buyer will be notified and the Product returned at its expense; in addition, a charge for testing and examination may be made on Products so returned.

12. Limitation of Remedies

Pfeiffer Vacuum's entire liability and the Buyer's exclusive remedy for any defects in materials or workmanship or non-performance of the Products shall be as set forth above under "Warranty." For any other claim related in any way to the subject matter of the sale of Pfeiffer Vacuum's Products, Pfeiffer Vacuum's liability, regardless of the form of action, whether in contract or tort, including negligence, shall be limited to the dollar amount Pfeiffer Vacuum actually receives for the Products furnished, or to be furnished, or services rendered, or to be rendered as the case may be, which is the subject of claim or dispute.

IN NO EVENT WILL PFEIFFER VACUUM BE LIABLE FOR ANY DAMAGES CAUSED BY THE BUYER'S FAILURE TO FULFILL THE BUYER'S RESPONSIBILITIES, OR FOR LOST PROFITS OR OTHER CONSEQUENTIAL DAMAGES, EVEN IF PFEIFFER VACUUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM AGAINST THE BUYER BY ANY OTHER PARTY.

13. General

If any provision or provisions of these terms and conditions are held to be invalid, illegal, or unenforceable; the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

No action, regardless of form, arising out of, or in any way connected with, the Products furnished or services rendered by Pfeiffer Vacuum, may be brought by Buyer more than one (1) year after the cause of action has accrued. This contract between Pfeiffer Vacuum and the Buyer shall be construed under and governed by the laws of the State of New Hampshire.