

**1. General**

- 1.1. Any delivery of goods and services ("sales") by us shall be subject to the Terms and Conditions set forth herein to the extent no other agreements have been explicitly made. Any contrary terms and conditions of Customers inconsistent with our General Terms and Conditions shall be excluded unless explicitly approved by us in writing.
- 1.2. Any claims held against us may not be assigned to third parties. Section 354a of the German Commercial Code (HGB) shall remain unaffected.
- 1.3. Any disposal of whatsoever kind of our goods may be subject to German, EU, US export control regulations as well as to the export control regulations of further countries. Any disposal of goods to embargoed countries or to denied persons or persons that use or may use the goods for military purposes, ABC weapons or nuclear technology is subject to an official license. Customer declares with his order the conformity with such statutes and regulations and that he will not directly or indirectly deliver goods into any such restricted countries, unless any and all required licenses have been obtained.
- 1.4. The goods supplied by us are high-end measurement devices. Customer shall be obligated to utilize our goods only within the intended use and to familiarize himself with the specifications and manuals of the products and accessories, including, but not limited to, Software. Customer shall further be obligated, to adhere to all legal or otherwise in consideration of diligent care necessary safety precautions in the handling with our goods.

**2. Information, Consultancy, Training**

- 2.1. Information and consultancy in relation to our products is based on our existing experience. Any quality and performance data represent average values which in individual cases may differ within customary tolerances from the actual quality and performance of the products. Any liability with regard to said data or certain application of our products shall be excluded. Section 10 of these Terms and Conditions of Sale shall apply to any issue of liability.
- 2.2. We offer to our customers training courses regarding the correct operation of our products against payment, which may be extra ordered. We recommend said training courses and advise our customers that maloperation of our high-end technology products may lead to the exclusion of warranty or liability.

**3. Contracting, Prices**

- 3.1. Contracts with us shall become effective only by written form.
- 3.2. The prices quoted in our order confirmation shall apply exclusively. Additional services will be invoiced additionally.
- 3.3. All our prices are quoted ex works Jena/Germany and referenced as net prices not including value added tax, which is to be paid additionally by the Customer in the amount provided by the applicable law. Freight costs, packing costs in excess of standard packing will be extra charged. Any public fees (including withholding taxes) and duties shall be borne by Customer.

**4. Delivery**

- 4.1. Unless otherwise expressly agreed in writing, we shall deliver ex works Jena/Germany.
- 4.2. Delivery dates and time limits shall only be binding if expressly approved by us in writing. Agreed time-limits shall begin on the date of our order confirmation, however, in no case prior to settlement of all details relating to an order. Delivery periods shall be deemed to be met on timely notification of readiness to ship if the goods cannot be dispatched in time through no fault of our own.
- 4.3. With respect to delivery periods and dates, which are not expressly defined as fixed dates in the order confirmation, the Customer may – two weeks after expiry of such a delivery period or date – set us an adequate grace period for delivery. We may only be deemed to be in default after expiry of such a grace period.
- 4.4. Without prejudice to our rights from Customer's default, delivery periods and dates shall be deemed to be extended by the period of time during which the Customer fails to comply with his obligations towards us. In case we do not comply with our obligations we shall only be liable for all kinds of damages arising from default in accordance with section 10 of these General Terms and Conditions of Sale.

4.5. We may perform partial deliveries and render partial services if such performance would not unreasonably affect the Customer.

4.6. The Customer may rescind the contract for default only after two unsuccessful grace periods unless the obstruction is merely of temporary nature and a delay in delivery would not unreasonably affect the Customer.

4.7. Any contractual or statutory right of a Customer to rescind the contract, which the Customer fails to exercise within the time period provided by law, if any, or within a reasonable period of time set by us, shall be forfeited.

**5. Software Delivery**

5.1. Software delivered along with our products is protected under German and international copyright laws. Upon full payment of the products delivered, customer receives a right to use in the software subject to the provisions of this section 5.

5.2. Software programs will fully remain our property. No program, documentation or subsequent upgrade thereof may be disclosed to any third party, unless with our prior written consent, nor may they be copied or otherwise reproduced, even for the Customer's internal needs apart from a single back-up copy for safety purposes.

5.3. The Customer is granted a non-exclusive, non-assignable right to use the software, including any related documentation and updates, for no other purpose than that of operating the product, for which such software is delivered. Customer shall be entitled, however, to dispose of the software together with the product delivered by us as a second-hand article, if and when the software was part of the product delivered by us and if the software is required to operate the product within the intended use.

5.4. For programs and documentation created and delivered at Customer's request, we shall grant to Customer single end user licences for non-exclusive and non-assignable exploitation.

5.5. Generally no source programs are supplied. Anything to the contrary shall require a separate written agreement in each individual case.

5.6. With regard to data loss provision 10.5 shall apply. Any other liability on our part with regard to software shall be governed by section 10.

**6. Shipment, Passing of Risk**

6.1. Unless otherwise expressly agreed, shipment shall always be carried out at the Customer's risk. The risk shall pass to the Customer upon handover of the goods to the person executing the shipment. If the Customer is a consumer the risk shall pass upon handover of the goods to him.

6.2. If any shipment is delayed for reasons caused by Customer, the risk of accidental deterioration, loss and destruction shall pass to Customer upon notification of our readiness to ship. Required storage costs after passing of risk shall be borne by the Customer. This shall not affect any of our further rights against Customer.

6.3. If the Customer is in default of acceptance, we shall be entitled to claim refund for any expenses associated therewith; the risk of accidental deterioration, loss and destruction of goods shall pass to Customer upon default of acceptance.

**7. Payment, Withholding of Payment**

7.1. Any payment shall be made in full within 30 days from the date of the invoice (due date). Payment shall be deemed duly cleared on the day the payable amount is credited to our accounts. Bills of exchange and cheques are not accepted for payment.

7.2. Immediately upon the due date – if Customer is a businessman in terms of the German Commercial Code (HGB) – we are entitled to demand default interest of 8 percentage points above the prime rate p.a.. We reserve the right to claim higher damage compensation, if actually incurred. The above standing shall apply to Customers who are consumers to the extent that the default interest shall be limited to 5 percentage points above the prime rate p.a..

7.3. Customers may only withhold or offset due payments against their own counter-claims if such counter-claims are uncontested or have been granted unappealable by court decision.

**8. Retention of Title**

- 8.1. Delivered goods shall fully remain our property until all receivables, on whatever legal grounds, have been fully paid up (all goods sold subject to retention of title).
- 8.2. The Customer shall be entitled to processing, combining, mixing or consumption of the goods delivered only upon complete payment of the purchase price.

**9. Warranty**

- 9.1. Provided that the Customer is a businessman, Customer shall be obligated to examine incoming goods diligently for any visible or obvious defects and to promptly notify us of detected defects in writing or text form. Hidden defects must be notified in writing or in text form promptly after detection, however, in any event no later than 4 weeks after receipt of goods. To duly notified defects, the following provisions 9.2. through 9.10. and section 10 shall apply.
- 9.2. The limitation period for claims for defects shall be 12 months from the delivery date according to section 4.1. (24 months in case Customer is a consumer). This shall not apply to Customer's claims for damages based on physical or health injuries caused by a defect for which we are responsible or claims for damages based on our intentional or grossly negligent conduct.
- 9.3. Any goods claimed to be defective shall be returned to us for examination in their original or equivalent packaging. We shall remedy defects if the warranty claim is valid and within the warranty period. It is at our discretion whether we remedy the defect by repair or replacement. We shall only bear costs inevitable to remedy the defect.
- 9.4. We shall be entitled to refuse to remedy defects in accordance with our statutory rights. We may refuse to remedy defects if the Customer has not complied with our request to return the goods claimed to be defective.
- 9.5. The Customer shall be entitled to rescind the contract or reduce the purchase price in accordance with his statutory rights, however, not before the Customer has notified us twice in vain to remedy the defect within a reasonable grace period. The aforesaid shall not apply, if the setting of such grace period is dispensable by the applicable law. In the event of rescission, Customer shall be liable for any intentional or negligent actions that cause destruction or loss of the goods. We are entitled to counter-claim benefits Customer has received from the utilization of the goods.
- 9.6. In the event we intentionally withhold disclosure of a defect or give a qualified warranty in accordance with section 444 of the German Civil Code, i.e. by representing that the goods will have certain characteristics at the time the risk passes to Customer and the takeover of extended liability in the event of failure, then the Customer's rights shall be as provided by the applicable law.
- 9.7. Specifications of our goods, especially pictures, drawings, data about weight, measure and capacity contained in offers and brochures are to be considered as average data. Such specifications and data shall in no way constitute a qualified warranty for certain characteristics but merely be considered as a description or labelling of the goods.
- 9.8. We shall not accept any liability for defects in the goods supplied if they are caused by normal wear and tear. The same shall apply if the Customer has tampered with the goods or in the event of their inappropriate treatment. The Customer shall have no rights against us in respect of defects in goods sold as lower-class or used goods.
- 9.9. Any rights of the Customer to receive damages or compensation shall be governed by the provisions as set forth in section 10 of these Terms and Conditions.
- 9.10. In the event the Customer returns goods to us claimed to be defective and said goods turn out not to be defective, then we shall be entitled to charge the Customer with a lump sum compensation of 10 percent of the respective invoice amount, however, in any event of no less than 20 Euros.

**10. Limited Liability**

- 10.1. In the event of a breach of contractual obligations, defective deliveries or tortuous acts, we shall only be obliged to compensate damages or expenses – subject to any other contractual or statutory conditions for liability – if we acted intentionally or with gross negligence or in cases of minor negligence, if such minor negligence results in the breach of an essential contractual duty, i.e. a duty the breach of which puts the fulfilment of the purpose of the contract at risk. However, in case of minor negligence, our liability shall be limited to typical damages which are foreseeable

at the time of the conclusion of the contract. This shall also apply in the event of data loss.

- 10.2. Our liability for losses caused by late delivery due to minor negligence shall be limited to 5 percent of the agreed purchase price.
- 10.3. The exclusions and limitations of liability in provisions 10.1 and 10.2 shall not apply in cases of a qualified warranty in accordance with section 444 of the German Civil Code (see provision 9.6.), in cases where we have maliciously failed to disclose a defect, in case of damages resulting from death, injury to health or physical injury or if mandatory laws on product liability are applicable.
- 10.4. The limitation period for claims against us – based on whatever legal grounds – is 12 months (24 months in case Customer is a consumer) from the date of delivery according to section 4.1. and in case of tortuous claims, 12 months (24 months in case Customer is a consumer) from the date the Customer becomes aware or would have to become aware of the grounds giving rise to the claim and the liable person, had the Customer not been grossly negligent. The provisions in this clause shall neither apply in cases of intentional or gross negligent breaches of duty nor shall they apply in cases referred to in provision 10.3.
- 10.5. Our liability for software supplied by us shall be limited to liability for loss or alteration of data caused by the program; however, we shall not be liable for any loss or alteration of data which could have been avoided by the Customer's compliance with its duty to secure such data at appropriate intervals and at least once per day.
- 10.6. If the Customer is an intermediary seller of the goods obtained from us and the final purchaser of the goods is a consumer, the limitation period for any action of recourse against us by the Customer shall be the period specified by statute.
- 10.7. In no event shall we be liable for any damages arising from the utilization of our goods beyond the intended use or arising from a violation by Customer of the duties as set forth in section 1.4.
- 10.8. In no event shall we be liable for any failure in performance or default, if such failure is due to Force Majeure, e.g. acts of God, war, strikes, riots, shortages, snow, storms, fires or any other cause whatsoever beyond our reasonable control. In such event we shall, however, be obligated to promptly notify the Customer and shall be excused from performance only to the extent and during the period of such prevention or delay. In the event the Force Majeure lasts for more than four (4) months, we shall be entitled to rescind the respective contract.

**11. Confidentiality, Data Protection**

- 11.1. Unless otherwise expressly stipulated in writing, any data and information provided from us to Customer in the course of our business relationship shall be deemed confidential and Customer shall refrain from making them available to any third party.
- 11.2. We point out that personal data in relation to our business relationship may be stored by us in our data systems. Customer may at any time demand information on stored data relating to him and exercise his data protection rights as provided by the applicable law.

**12. Waste Disposal**

- 12.1. Customer is obligated to ensure the correct waste disposal of the goods in accordance with the applicable law.
- 12.2. In case Customer is a businessman, Customer shall be obligated to dispose the goods at own costs. Customer shall be obligated to transfer this obligation on the purchaser of the goods or parts thereof in case of a resale of the goods. In case the Customer is a Consumer the statutory provisions regarding disposal of waste shall apply.

**13. Jurisdiction, Applicable Law**

- 13.1. The place of jurisdiction, provided that the Customer is a businessman, a legal person under public law or a special fund under public law, shall be the place Jena/Germany. However, we may also take legal action against you at your place of business.
- 13.2. Governing law shall be the laws of Germany with the exclusion of its body relating to international conflict of laws and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).