



1. Exclusive Validity of General Terms and Conditions of Sale; Subject Matter of Contract

- 1.1 The legal relationship between you and us shall be governed exclusively by the General Terms and Conditions of Sale (the „Terms and Conditions“) set forth herein. Changes and amendments must be in writing. Conflicting provisions of your terms and conditions shall not apply even if they are not expressly opposed by us in each individual case.
- 1.2 Our quotations are not binding; your orders shall become binding on us only upon our written order acknowledgement. If an official licence is required for the export of our goods and services and if an application for such a licence is not granted, the contract shall be deemed automatically cancelled.
- 1.3 The provisions of the agreed delivery term of INCOTERMS 2010 published by the International Chamber of Commerce (Paris) shall also apply, but in the event of conflict of terms, these Terms and Conditions shall govern.
- 1.4 If any one or more provisions of these Terms and Conditions should be invalid, in whole or in part, the validity of the sales contract shall not in any way be affected thereby.

2. Prices and Price Quotations

- 2.1 Unless otherwise agreed, prices shall be quoted, depending on the means of transportation, either FOB (named German port of shipment) or FCA (named German airport/trailway station/place of delivery to the carrier) or DAF (named place at German frontier), as we shall specify and all in accordance with INCOTERMS 1990.
- 2.2 Our prices do not include any sales tax (value-added tax); this must also be paid by you if the sale is subject to such tax. You shall assist us in a suitable manner in any proceedings concerning the collection of any taxes, duties, fees or other charges, and provide us with the necessary documentation. Costs arising from any necessary certification or legalization of commercial documents, as well as customs duties and other charges, fees and taxes levied outside the Federal Republic of Germany shall be borne by you.
- 2.3 The replacement of the German mark „DM“ by the uniform currency of the European Union „EURO“ to take place on the official day of conversion and at the official conversion rate, the resultant payment of debts in „EURO“ and all other consequences of the currency change shall not constitute a violation of this contract, nor shall they entitle either party to the contract to take legal action.

3. Terms of Payment

- 3.1 Unless otherwise agreed, payment shall be made by irrevocable letter of credit („L/C“) to be opened in our favour and confirmed by a bank in the Federal Republic of Germany. The L/C must be issued in „DM“ and - as from the official day of conversion - in „EURO“. The „Uniform Customs and Practice for Documentary Credits“ of the International Chamber of Commerce (Paris), 1983 edition, shall govern the all costs and charges arising from the opening and maintenance of the L/C shall be borne by you.
- 3.2 Deductions (e.g. taxes, fees) shall not be permitted.
- 3.3 For purposes of determining its timeliness, a payment shall be deemed to have been made on the day the payment is credited to our account, or, in the case of checks and drafts, on the day they are paid.
- 3.4 Your obligation to pay shall be fulfilled only when we are able to dispose freely of the invoiced amount, and there is no reservation for repayment.
- 3.5 We may set off any claims we may have against you against claims for payment which you may have against us. Without prejudice to further claims, we may charge default interest on any past due amounts from the due date at a rate equal to the costs incurred by us (including, without limitation, credit charges and processing costs).
- 3.6 You may set off only claims which are either uncontested by us or which have been adjudicated and are final and unappealable.
- 3.7 If you default in payment or we have reasonable doubt as to your solvency or credit standing, we may, without prejudice to any other rights we may have, accelerate all claims arising out of our business relationship and demand advance payment for further deliveries.

4. Term of Delivery

- 4.1 Our compliance with the term of delivery presumes the timely receipt of all data to be supplied by you, the granting of all necessary permits and releases, your observation of the agreed terms of payment and the performance of all of your (collaborative or anticipatory) obligations, which are preconditions to the performance of our obligations. If these preconditions are not met in a timely manner, the term of delivery shall be appropriately extended. The term of delivery shall be deemed to have been complied with when, within the term of delivery, the products leave our factory or you have been advised that the products are ready for shipment.
- 4.2 If you shall cause interruption or delay of our contractual performance, corresponding additional costs shall be borne by you, and the term of delivery shall be extended appropriately.
- 4.3 If we shall be unable to comply with the term of delivery because of strikes, lockouts or unforeseeable events beyond our control, including, without limitation, mobilization, war, insurrections, changes in law, acts of government shortages of materials or energy, incorrect or late supplies in spite of careful choice of suppliers, business interruption or transportation difficulties, we may extend the term of delivery appropriately.
- 4.4 If we are responsible for any delay in delivery, you may, either cancel the contract after the expiration of a reasonable extension granted in writing, or claim damages up to a maximum aggregate amount not in excess of 5 % of the value of the undelivered products, provided you can prove that you actually suffered a loss as a result of the delay. Claims for damages, whether contractual or statutory, in excess of the amount set forth in the preceding sentence shall be subject to the limitations and exclusions of liability stipulated in Section 12 below.
- 4.5 Delivery may be made in partial shipments.

5. Shipment, Risk of Loss

- 5.1 Unless otherwise agreed, we shall determine the route and mode of transportation.
- 5.2 The risk of loss of, or damage to, the products shall pass to you in accordance with the agreed delivery term of Incoterms 1980. If the dispatch, collection or delivery is delayed or becomes impossible for reasons beyond our control, we shall notify you accordingly and grant you a reasonable period of time for removal of the products.

Upon expiration of this period, we may store the products in our warehouse or elsewhere, at your cost and at your risk. Upon such storage, our contractual obligation to deliver shall be deemed to be fulfilled, and the risk of loss of or damage to, the products shall pass to you.

6. Notice of Defects and Damage in Transit

- 6.1 Obvious defects, incorrect shipments and shortages not caused by transport shall be reported to us in writing immediately, and in any event not later than 4 weeks after receipt of the products.
- 6.2 If delivered by carrier, you may accept products with externally visible damage or loss caused by transport only if you note such damage or loss on the freight documents, and this note is countersigned by the carrier. This also applies when internal or latent damage or loss can be assumed on the basis of the external condition of the shipment (e.g. damaged packing). Damage or loss caused by transport which is not externally visible shall be reported to the carrier immediately after discovery. In both cases you shall notify us immediately by telefax, telex or telegram.
- 6.3 If you do not act in accordance with paragraphs 6.1 and 6.2, the goods shall be deemed to be complete and in conformity with the contract.

7. Reservation of Title

- 7.1 To the extent permitted by the law of the country to which the products are delivered, we shall reserve title to the delivered products (the „secured products“) to secure the payment of all contractual claims we have against you for payment.
- 7.2 If you have purchased the secured products for resale, you may dispose of such products in the ordinary course of business. This authorization shall terminate when you default in your obligations, become insolvent, or when legal bankruptcy, reorganization or similar proceedings are filed or instituted against you.
- 7.3 Upon termination of your authority in accordance with paragraph 7.2, we may demand the temporary return of the secured products at your expense, in order to secure our title to the secured products.
- 7.4 At our request, you shall furnish us with all relevant information about the inventory of the secured products. You shall notify us immediately of attempts by third parties to levy upon and sell the secured products and support us, at your expense, in securing our title to the secured products.
- 7.5 If reservation of title is not permitted by the law of the country to which the products are delivered, we may demand from you other, equivalent security (e.g. security interest, charge, or guarantees). You shall be obligated to collaborate in all measures which are necessary and legally permissible to secure our claims, and to notify us immediately if third parties assert claims, liens, or charges which endanger our title to the secured products.

8. Acceptance

- 8.1 Acceptance tests shall be conducted only if previously agreed. In any event the costs shall be borne by you.
- 8.2 If you waive an agreed acceptance test, or do not attend the test in spite of timely notice, the test conducted by us shall be deemed to be acceptance. Additional costs resulting from the delay of such tests for reasons beyond our control shall be borne by you. In any event the products shall be deemed to be accepted when you have placed them in service.
- 8.3 Acceptance may not be refused because of minor defects, although such acceptance does not relieve us from our obligation to remedy said defects.

9. Warranty and Liability resulting from Defects

- 9.1 We warrant that the products shall be free from defects in material and workmanship. Subject to the provisions of Section 6 above, if you report any such defect to us, we will, at our option, either replace or repair the product free of charge. We shall decide whether defects will be repaired at the facility where the products are used, or at the facilities of one of our representatives or subsidiaries or at our factory. If we decide not to repair the defects at the facility where the products are used, you shall, at your expense, pack the defective products properly and safe for shipment and send them to the address designated by us. If we do not remedy the defect after the expiration of a reasonable period of time agreed to by you in writing or if several attempts at repair or replacement have failed, you shall be entitled either to reduce the purchase price by a reasonable amount or to return the product and demand a refund of the purchase price.
- 9.2 The following shall apply to the products from the Division „Sondertechnik“ and to astronomical instruments: We shall bear only the costs of workmanship and material arising out of the repair of the products or the cost of the replacement products, as the case may be. In addition, we shall bear only the costs of repair or replacement ex works. If the defects are repaired at the facility where the products are used, we shall bear only those costs which would have been incurred by us if the repair had been carried out at our factory. Costs of remedying defects which, according to the above provisions, are not borne by us, such as transport charges and travel expenses, and costs for assembly, disassembly and testing, shall be borne by you. If, however, these costs are unreasonably high in relation to the value of the delivered products, you may request a reasonable apportionment of these costs based on the product's value.
- 9.3 Unless otherwise agreed, the limitation period for warranty claims shall be 12 months; provided however, that for photogrammetric systems and processor-controlled photogrammetric instruments this period shall be 3 months. The limitation period shall commence on the date the risk of loss passes to you. If, in addition, installation and start-up have been agreed, the limitation period shall commence on the date the products are turned over to you; in any event, the limitation period shall terminate 15 months or, for photogrammetric systems and processor-controlled photogrammetric instruments, 6 months after the date the risk of loss passes to you.
- 9.4 You shall immediately notify us of defects which appear and do everything within your power to keep the damage to a minimum.
- 9.5 We shall be obligated to remedy defects only if you comply with your contractual obligations. In particular, agreed payments must be made in accordance with the payment terms, and you may withhold payments only in an amount which bears a reasonable relationship to the defects which have appeared.

Kreissparkasse Heidenheim
BLZ 63250030
Kto.Nr. 868761
IBAN DE07 6325 0030 0000 8687 61
BIC SOLADES1HHD

Director:
Dr. Friedrich Offenhaeuser

Offenhaeuser+Berger GmbH
Meeboldstrasse 30
89522 Heidenheim, Germany
Registergericht Ulm HRB 661577
Ust-IdNr. DE213408088



- 9.6 Defects resulting from normal wear and tear (especially in working parts) or from mishandling shall not be covered by this warranty. Our warranty obligation shall terminate if the products are modified or repaired by you or third parties not authorized by us.
- 9.7 The following provisions shall apply to software:
We warrant that the software delivered to you corresponds to our program specifications, provided it has been installed in our corresponding systems and in accordance with our instructions.
We shall not be liable nor shall we provide any warranty for software, interfaces, etc., produced by other manufacturers and supplied by us; where appropriate, we shall transfer to you our claims against the manufacturer concerned.
Only software defects which can be reproduced at any time shall be considered to be defects covered by our warranty obligation.
We shall remedy software defects which substantially impair the use in accordance with the contract, at our option and depending on the extent of the defect, either by installation of an improved version of the software or by advice to how to eliminate such defects or to avoid their effects. We do not warrant that the software will function without error in each configuration you select, unless such configuration has been specified by us.
Claims based on a data loss shall also require that you have performed a data backup in a machine-readable form at intervals adequate to the application concerned, but not later than at the end of the day on which the software was used, to ensure the restoration of data with a reasonable expenditure.
- 9.8 Save claims for damages the foregoing are your exclusive remedies in the event of a breach of warranty. ALL WARRANTIES, INCLUDING EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A SPECIAL PURPOSE, OTHER THAN THOSE EXPRESSLY SET FORTH HEREIN ARE EXCLUDED TO THE EXTENT PERMITTED BY LAW. Any claims for damages, whether contractual or statutory, shall be subject to the limitations and exclusions of liability stipulated in Section 12, in particular claims for compensation for damages not incurred by the product itself (consequential or indirect damages).
- 10. Industrial Property Rights and Copyrights**
- 10.1 Should claims be brought against you for infringement of industrial property rights or copyrights (the „rights“) existing in your country based on your use of a product delivered by us, we shall defend you against such claims and pay any costs or damages either adjudicated or allowed by us to the owner of such right, provided that you notify us immediately in writing of such claims and all defenses and measures to reach a settlement out of court are reserved to us. Under these conditions we shall generally obtain for you the right to continue to use the product. If this proves impossible under economically feasible conditions, we shall, at our expense and at our choice, either modify or replace the product so that it no longer infringes the rights or take the product back and reimburse you for the purchase price paid to us, adjusted to take into account the age of the product. You shall not have any other or further claims arising out of the infringement of the rights.
We shall not be liable for infringement of rights arising out of a modification of a product delivered by us, use of such product in a manner other than as specified in our publications or use of such product in combination with other products not supplied by us.
- 10.2 We shall not be liable for infringement of rights based on a product manufactured by us in accordance with your drawings, designs and specifications. In such case you shall indemnify us and hold us harmless against claims of third parties.
- 10.3 You may not change the exterior of a product to allow you or a third party to appear to be the manufacturer, or remove our trademarks from, or affix your trademarks to, the product.
- 10.4 We reserve title and copyright to cost estimates, drawings and other documents supplied by us; they may be made available to third parties only with our prior written consent. Drawings and other documents relating to quotations shall be returned to us immediately upon request if no order is placed with us. The preceding sentences shall apply analogously to your documents; they may, however, be made available to such third parties from which we commission, or intend to commission, supplies or services.
- 11. Rights to software**
You shall be granted a non-exclusive, non-transferable license to use programs, relating documentation and subsequent amendments exclusively in connection with the product on which you initially use such programs, documentation and amendments. You shall have no further rights to the programs, relating documentation or subsequent amendments; we shall remain sole owner of the copyrights.
You shall not without our prior written consent make these programs, relating documentation and subsequent amendments available to third parties, nor - even for your own purposes except for one backup copy - copy or otherwise duplicate them.
Source programs shall be made available only by separate written agreement.
- 12. Liability and Claims for Damages**
- 12.1 Liability for damages on our part and on the part of our employees and agents or officers, regardless of the legal basis involved - including the breach of any legal obligation in connection with contract negotiations (culpa in contrahendo) , breach of contract, default, tort or impossibility on our part - shall, subject to further limitations and exclusions in the following paragraphs, be limited to the cases in which
a) the damage arises from wrongful intent or gross negligence or the breach of an express warranty or
b) ordinary negligence results in a breach of an essential contractual obligation other than the breach of an express warranty - but in the case of this subparagraph b), liability shall be limited to the foreseeable damage and to a maximum amount of 200,000.00 DM for economic loss and damage to property and 2 million DM for personal injury.
- 12.2 If you are a merchant or a body corporate under public law or a body under public law with special assets, any claims for damages shall be further limited in addition to the limitations contained in paragraph 12.1 so that, in the event of ordinary negligence, we shall not be liable for indirect damage including, without limitation, consequential damage in the form of property loss or loss of profits. Our liability for indirect damage shall be limited to 200,000.00 DM in the event of gross negligence.
- 12.3 To the extent that it is applicable, our liability pursuant to the German statute on product liability governing personal injury and property damage to privately used objects resulting from defects in an object supplied shall remain unaffected.
- 12.4 With respect to software, we, our employees and our vicarious agents or officers, shall be liable for the loss or transformation of data caused by defective programs only insofar as this is unavoidable after you have fulfilled your obligation to perform the data backup as stipulated in paragraph 9.7.
- 13. Place of Performance, Place of Jurisdiction and Applicable Law**
- 13.1 Place of performance for delivery shall be our shipping office; place of performance for payments shall be our registered office (Federal Republic of Germany).
- 13.2 If you are a merchant or a body corporate under public law or a body under public law with special assets, at our choice, the courts of Heidenheim (Federal Republic of Germany) or of your registered office or place of business shall have jurisdiction.
- 13.3 The law of the Federal Republic of Germany shall govern, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of April 11, 1980.