

PI (Physik Instrumente) L.P. Terms & Conditions of Sale

1. GENERAL:

All Quotations, Products, and Services provided by PI (Physik Instrumente) L.P. ("PI" or "Seller") are furnished only on the Terms and Conditions stated herein (the "Agreement"). All orders for PI's products ("Products"), if set forth on any forms apart from an unqualified acceptance of PI's Quotation form, are subject to written acceptance at PI's sales offices or its head office in Auburn, Massachusetts. PI reserves the right to reject any purchase orders. Any Quotations furnished by PI shall expire 30 days following the date set forth on the specific Quotation form, and may be revoked, amended, or otherwise revised by PI by written notice prior to acceptance.

2. PRICES:

All prices published by PI are subject to change without notice. Unless otherwise indicated by PI, quoted prices are applicable only to United States sales; international sales are governed by PI's current international published price lists. Prices are exclusive of all sales and/or excise tax unless otherwise specified in writing by PI. PI does not report, pay, or collect any tax which may be imposed on the Buyer unless such charge is separately stated on the face of the invoice for such Products. Prices for Products are quoted EXW PI. Quoted prices do not include shipping, duty, sales taxes, license fees, inspection fees or any other fees required for operation of the equipment unless otherwise specified by PI.

3. CONDITIONS OF SALE:

The signed purchase order ("Order") will be considered a binding purchase agreement between both parties. Buyer's unqualified acceptance of the PI Quotation form shall constitute a signed purchase order. Acceptance by Buyer of these terms may be made either by written acceptance or by receipt by Buyer of delivery of any one or any part of the Products to be delivered.

4. PAYMENT:

The price for each Product is based on payment in accordance with Net 30 days from the date of invoice and are subject to PI credit approval at receipt of purchase order. Buyer agrees to furnish PI with requested credit information. PI reserves the right, at its sole discretion, to require full or partial payment in advance, or to limit, revoke or modify any credit terms previously extended as to time or amount if PI reasonably determines there is a risk that Buyer will fail to make full payment when due based on Buyer's financial condition or payment history. Past due balances shall be subject to a service charge of the lower of 1.5% per month or the legal maximum percentage. If Buyer fails to make prompt payment, PI may cancel or delay delivery of Products, or may repossess the Products without notice, and/or avail itself of any available remedy.

5. DELIVERY AND SHIPMENT:

Delivery for Products will be by a common carrier of PI's selection unless otherwise noted in writing by PI. Partial shipments are permissible. In the absence of specific shipping instructions, PI will ship by the method it deems most advantageous.

6. PERFORMANCE:

Dates indicated for delivery or other performance represent PI's best estimate. PI shall not be liable for any loss, damages, penalties, or in any other way because of any other delay in performance or failure to give notice of any delay due to unforeseen circumstances or to causes beyond its control. For delays resulting from any such causes, performance shall be correspondingly extended.

7. PRODUCT INSPECTION:

Without undue delay upon Buyer's receipt of a Product or within such other period agreed between the Parties in the applicable Order ("Inspection Period"), Buyer will inspect the Product with regard to quantity, identity, and visible damages and inform PI during the Inspection Period by written notice if quantity and/or identity of the supplied Product are not in compliance with the underlying Order or if the supplied Products are affected by visible damages ("Nonconforming Products"). If Buyer timely notifies PI of any Nonconforming Products during the Inspection Period, PI shall determine, in its reasonable discretion, whether the Products are Nonconforming Products. If PI determines that the Products are Nonconforming Products, it shall, in its sole discretion and at its sole cost and expense replace such Nonconforming Products with conforming Products. The rights of Buyer with regard to Nonconforming Products shall be deemed waived in case no written notice is sent to PI within the Inspection Period. A product will be considered accepted (a) ten (10) business days after Buyer's receipt of the Product; or (b) upon written confirmation of acceptance from Buyer, whichever is sooner.

8. TITLE AND RISK OF LOSS:

Regardless of the manner of shipment, title to the Product(s) and the risk of loss or damage thereto shall pass to Buyer upon tender to the carrier at Seller's facility.

9. SECURITY INTEREST:

PI hereby reserves a purchase money security interest in the Products delivered and the proceeds thereof, in the amount of the purchase price. These interests will be satisfied when the Products are paid for in full. Buyer authorizes PI to file in any applicable jurisdiction financing Statements executed only by PI, describing the Products sold herein as the collateral. On the request of PI, Buyer will execute Financing Statements and other instruments required to perfect PI's security interest and to pay the cost of filing or recording the same in all public offices, whenever PI deems filing or recording to be necessary or desirable. PI or its representatives may enter upon Buyer's premises at any reasonable time to inspect the Products until payment has been made in full.

10. REMEDIES:

Upon any default by Buyer of any obligation under this agreement, PI may declare all such obligations immediately due and payable, and avail itself in addition to any other remedies or all of the remedies of a secured party under the Uniform Commercial Code or other applicable law.

11. WARRANTY:

11(a): Hardware: PI warrants each product manufactured by it to be

free from defects in material and workmanship for two (2) years from the date of shipment, unless indicated differently by PI. Parts replaced or repaired under this warranty are warranted only for the remaining portion of the original warranty period applicable to the Product in which they are installed. Any Products purchased from PI which become defective during the warranty period will be replaced or repaired by PI at the Buyer's site or at PI's site in Auburn, Massachusetts, or at a PI designated facility, at PI's option, that being the EXCLUSIVE REMEDY under this warranty. Buyer shall promptly notify PI of any claim, and PI shall have the option to inspect and test each item claimed to be defective at Buyer's site or request the Product to be shipped to PI's site or designated facility. Buyer shall bear all freight charges within the United States for the return of any Products for warranty repair or replacement; return freight charges will be borne by PI. This warranty does not extend to any Products that PI determines were (i) misused or neglected in use, storage or handling; (ii) modified or serviced without PI's authorization or which have had their original identification markings removed, altered or defaced; (iii) caused by mechanical damage resulting from improper use wherein excessive force or voltages were applied that are outside the specified ranges, or for the use of power supplies, amplifiers, or controllers not sold by PI unless such use is expressly approved in writing by PI; (iv) used in conjunction with parts or equipment not provided or authorized by PI; (v) customer furnished material incorporated into the Products; or (vi) considered normal wear and tear from use. Air bearing products are rated only for clean, dry, oil-free environments. Buyer must supply clean, dry, oil-free compressed air for the operation of air bearing products. Damage to air bearing products caused by dirt, oil, or moisture in the environment or the compressed air supply will not be covered under warranty. PI MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS EXPRESSLY SET FORTH IN THE ABOVE WARRANTY.

11(b) Software & Firmware: Unless otherwise provided in a Seller or third party license, Seller warrants that standard software or firmware Products furnished hereunder, when used with Seller-specified hardware, will perform in accordance with published specifications prepared, approved, and issued by Seller for a period of one (1) year from the date of invoice from Seller or its appointed distributor, as the case may be. Seller makes no representation or warranty, express or implied, that the operation of the software or firmware Products will be uninterrupted or error free, or that the functions contained therein will meet or satisfy Buyer's intended use or requirements.

12. LICENSED SOFTWARE & FIRMWARE:

Use of Products comprised of software and firmware may be subject to Buyer's acceptance of additional terms and conditions set forth in separate Seller or third-party license agreements that will control to the extent necessary to resolve any conflict with the terms and conditions stated or otherwise referenced herein. In the absence of a separate Seller's license agreement, Buyer is granted a non-exclusive, non-transferable license to use provided Seller's software or firmware only in object code form and solely in conjunction with Seller-provided hardware Products, with no rights to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the software or firmware.

13. RETURNS:

All Product returns require a return material authorization number from PI before returning which may be granted or denied at PI's sole discretion. Returns for credit must be in a like-new and unused condition, in its original packaging and within 30 days of shipment. Returns, when approved for credit, are subject to a minimum 25%

restocking charge and up to 100% for OEM and custom manufactured items.

14. PO CANCELLATION:

Products are built to order, and so PO cancelations cannot be accepted once an order is started at the factory.

15. OEM DELIVERY SCHEDULE CHANGES:

PI reserves the rights to grant or deny any such request. A price penalty may apply depending on the financial load it creates to PI and will be handled on a case-by-case basis.

16. CONFIDENTIALITY:

16(a) Confidential Information: The obligations in this Section 16 apply to the extent the parties have not executed an NDA applicable to the Order. If the Parties have executed an NDA applicable to the Order, the terms and conditions of the NDA control and take precedence of this Section 16. PI may disclose to Buyer certain non-public information or materials relating to PI's products, intellectual property, business, business plans, marketing programs and efforts, customer lists, customer information, financial information, and other confidential information and trade secrets that is identified or labeled as "proprietary" or "confidential" ("Confidential Information").

16(b) Exceptions: Confidential Information does not include information that: (i) is or becomes publicly available without breach of the Agreement; (ii) was previously known to Buyer prior to the date of disclosure, as evidenced by contemporaneous written records; (iii) was acquired from a third party without breach of any obligation of confidentiality; or (iv) was independently developed by Buyer without reference to PI's Confidential Information.

16(c) Confidential Obligations: To the extent Confidential Information is required to be disclosed pursuant to a subpoena or other similar order of any court of government agency, Buyer upon receiving such subpoena or order shall (a) promptly inform PI in writing and provide a copy thereof, (b) cooperate with PI in limiting disclosure of Confidential Information, and (c) shall only disclose that Confidential information necessary to comply with such subpoena or order. Buyer will not use or disclose Confidential Information without PI's prior written consent. Subject to the foregoing nondisclosure and non-use obligations, Buyer agrees to use at least the same care and precaution in protecting such Confidential Information as Buyer uses to protect its own confidential information.

16(d) Remedies: Buyer acknowledges that due to the unique nature of PI's Confidential Information, PI will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, PI shall be entitled to seek injunctive relief to prevent such unauthorized use or disclosure.

16(e) Return/Destruction of Confidential Information: On PI's written request, Buyer will promptly return or destroy, at PI's discretion, all originals and copies of Confidential Information, including documents and materials it has received containing such Confidential Information, together with summaries, records, modifications, adoptions and other documents containing or prepared from PI's Confidential Information.

17. INDEMNIFICATION:

If any product is manufactured and/or supplied according to Buyer's drawings and specifications, Buyer shall assume all responsibility for, and shall indemnify and hold PI harmless from any liability resulting from a charge or allegation that such Product infringes or contributes to the infringement of any letters patent.

18. TRADE CONTROLS:

Buyer understands that (re-)exports and in-country transfers of any Product, software, technical data, or service provided by Seller (each, an "Item") are subject to U.S. and other applicable export, import, customs, antiboycott and economic sanctions laws, regulations, and orders (collectively, "Trade Control Laws"). Buyer shall not use or provide any Item or any product incorporating an Item, directly or through others, in contravention of any Trade Control Law, including (a) to anyone in Belarus, Crimea, Cuba, Iran, North Korea, Syria, Russia, Venezuela, or the Donetsk or Luhansk regions of Ukraine, or to any other embargoed or comprehensively sanctioned destination or government affiliate of such destination, wherever located, in contravention of any applicable Trade Control Law, (b) to anyone listed on (or owned or controlled by anyone on) any sanctioned persons list issued by the U.S. Departments of Commerce, State, or Treasury, including the Specially Designated Nationals and Blocked Persons List and the Entity List (each, a "Sanctioned Person"), or (c) for a prohibited end-use, including for a semiconductor or supercomputing end use in China, Hong Kong or Macao that is prohibited under the Export Administration Regulations, or for chemical, biological, nuclear, or missile proliferation, or nuclear activities. Buyer shall only use the Items for non-military, peaceful purposes, unless otherwise specifically agreed to in writing by Seller. Buyer certifies that it is not a Sanctioned Person. In addition to any other remedy it may have, Seller may suspend and/or cancel the export, delivery, installation, and/or any maintenance or repair service of any Item if (a) Seller has not received all export-related documentation requested by Seller, including compliance statements, (b) Seller has not received the governmental approvals that Seller deems to be required, or (c) Seller believes that such activity may violate any Trade Control Laws or Seller's own compliance policies. Buyer must notify Seller before providing any technical data to Seller that is controlled under any Trade Control Law.

19. COMPLIANCE WITH LAWS:

Buyer represents and warrants that they abide by and comply with, all applicable federal, state and local laws, regulations and ordinances, including, without limitation, laws and regulations related to safety, health, the environment, fair labor practices, workers compensation, and discrimination.

20. LIMITATION OF LIABILITY:

NOT WITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT EXCEPT FOR THE PARTY'S LIABILITY FOR: (i) BREACH OF DATA SECURITY OR CONFIDENTIAL INFORMATION

BETWEEN BUYER AND PI; (ii) THIRD PARTY INDEMNIFICATION; OR (iii) BODILY INJURY (INCLUDING DEATH), GROSS NEGLIGENCE, OR WILFUL MISCONDUCT: (a) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER ANY CIRCUMSTANCES FOR ANY LOST PROFITS OR INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, EVEN IT HAS NOTICE THAT THOSE KINDS OF DAMAGES MAY OCCUR; AND (b) IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY EXCEED THE AMOUNT PAID IN THIS AGREEMENT.

21. RELATIONSHIP OF THE PARTIES:

Seller and Buyer are independent contracting parties and nothing in this Agreement shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does this Agreement grant either Party any authority to assume or create any obligations on behalf or in the name of the other.

22. NO WAIVER:

Failure on any occasion by either Party to enforce this Agreement shall not prevent enforcement on any other occasion, nor shall it be deemed a waiver of any other rights of such Party under this Agreement. No waiver from PI will be effective unless set forth expressly in writing and signed by PI.

23. MISCELLANEOUS:

Buyer shall be responsible for obtaining all permits and for meeting all other requirements of any kind whatsoever relating to state and local codes, regulations and ordinances. All contracts for sale of Products by PI shall be interpreted under and governed by law of the State of Massachusetts, United States of America without regard to conflicts of law principles. The Terms and Conditions as set forth herein shall constitute the entire Agreement between Buyer and PI with respect to the Products ordered. PI shall not be bound by any terms in the Buyer's order which are inconsistent with the terms herein set forth. These Terms and Conditions supersede any other agreement between PI and Buyer in connection with the Products and services hereof. They cannot be modified, supplemented or rescinded except by writing, duly signed by the authorized signatures of both parties. If any part of these Terms and Conditions stated herein are held void or unenforceable, such part will be treated as severable, leaving valid the remainder of the Terms and Conditions notwithstanding the part or parts found void or unenforceable. The Parties agree to negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is consistent with the intentions underlying the original provision. In case of any breach or default by Buyer, PI shall be entitled to all its costs to enforce any or all of these Terms and Conditions, including reasonable attorney's and experts' fees and expenses and all court costs.

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