

General Terms and Conditions of Weigel Messgeräte GmbH Nuremberg, as of July 2010

1. General

- 1.1 Our General Terms and Conditions apply to all contracts arising from the business relationship with the contracting party, even if they are not explicitly included in the contracts for follow-up businesses. The General Terms and Conditions of the contracting party are not accepted.
- 1.2 Our quotations are non-binding. A contract is only concluded by a written confirmation of order.
- 1.3 Information in brochures and other descriptions of features, dimensions, weight, consumption figures, running costs, etc. are to be regarded only as approximate unless they are explicitly defined in writing as being binding. A guarantee of quality or durability only exists when issued explicitly and in writing.
- 1.4 All products meet the specifications stated in our currently valid catalogue unless explicitly agreed otherwise in individual cases. We reserve the right to update our products to reflect state of the art technology.
- 1.5 In the case of exceptional events beyond our control in Germany or abroad, which were unpredictable for us despite haven taken all due care and which make delivery according to contract either impossible for us or only possible under economically unacceptable conditions taking into account or other delivery commitments, we are entitled to reduce or cancel delivery for the duration of the said circumstances or – if there is a longer-term obstruction – to withdraw from the contract or to terminate it without notice. This applies, for example, to war or warlike conditions and their effects, civil unrest, sabotage, interruption of operation, measures of labour disputes, legal or administrative measures, obstruction or delay of transport, disruption of our supply of raw products or supply problems of our presuppliers. If such disruptions lead to a delay in delivery of more than four months, the contracting party can withdraw from the contract. Other rights to withdraw remain unaffected by this. Any further entitlements are excluded.
- 1.6 We reserve the ownership of and copyright to cost estimates, drawings and other documents, without restrictions and for all countries. These must not be made accessible to third parties. Drawings and other documents related to quotations must promptly be returned to us on request should the contract not be awarded to us.

2. Prices Delivery

- 2.1 The prices we quote are ex-works Weigel Messgeräte GmbH Nuremberg (EXW INCOTERMS 2000), excluding the legally applicable VAT and excluding packaging and transport costs.
- 2.2 The prices we quote are fixed prices valid for a period of four months as of conclusion of the contract. After that, we have the right to invoice the list price applicable on the day of delivery.
- 2.3 Unless agreed otherwise in individual cases, all deliveries are made ex-works Weigel Messgeräte GmbH Nuremberg (EXW INCOTERM 2000). If in individual cases at the request of the contracting party we despatch the goods to a destination of its choice, then the transport risk – also in the case of “carriage paid” delivery – passes to the contracting party at the point in time at which we hand over the goods to the forwarder, carrier or the German Rail (Deutsche Bahn).
- 2.4 Details on delivery dates and times are approximate unless explicitly agreed otherwise in writing in individual cases.
- 2.5 We do not guarantee adherence to delivery periods. Claims for damages by the contracting party because of delayed delivery, even after expiry of any grace period set to us, are excluded unless intention or gross negligence can be held against us. In this case the claims for damages by the contracting party are limited to a maximum of 5 % of the net order value. We do not accept any liability for indirect damages or untypical consequential damages.
- 2.6 Agreed delivery periods start from the date of our order confirmation but in no case before full clarification of all performance details.

3. Warranty

- 3.1 We must immediately be informed of any complaints about the goods delivered; for obvious defects this means within ten days after receipt of the goods, for non-obvious defects within ten days after their discovery – in writing and with details
- 3.2 Any defect to be ascribed to us first of all entitles the contracting party solely to correction of the defect (supplementary performance), where we reserve the right to decide how this correction is to be carried out. In order to fulfil our guarantee obligations we are entitled to have recourse to third parties. For simple corrective measures, particularly related to a simple replacement of minor parts, we may request the contracting party to carry out this correction itself.
In the event that the correction fails twice, the contracting party is entitled to reduce the contract price or to demand a cancellation of the contract. Parts subject to wear and consumables are excluded from any form of guarantee.

- 3.3 If the contracting party is an entrepreneur who signed the contract in the exercise of his commercial or selfemployed activity, if it is a legal person under public law or a separate fund under public law, the defects liability period shall be limited to a period of one year after delivery. In other cases the legal provisions apply.

- 3.4 Our costs for the processing of unfounded complaints relating to quality or quantity have to be borne by the contracting party.

4. Liability

- 4.1 Claims for damages by the contracting party for whatever legal reasons are excluded, in particular because of non-fulfilment of obligations deriving from the contract for delivery, fault prior to or during conclusion of the contract, and tortious acts.
The above does not apply in cases of intention or gross negligence, for injury to life or bodily injury and damage to health, due to the issuing of a guarantee for the existence of a certain quality (guarantee of quality) or for negligent serious violation of obligations. In the event of us being negligent, our liability is in all cases limited to the foreseeable and typical damage.
- 4.2 Whenever our liability is excluded or restricted, the same applies to the personal liability of our employees, vicarious agents, representatives and appointees.

5. Terms of Payment

- 5.1 The amount of the invoice is to be paid directly on delivery net in cash or equivalent, without any deductions. If other terms of payment have been agreed, then the payment due date calculation is based on the date of delivery.
- 5.2 The place of performance of contracting party's obligation to pay is Nuremberg. Timely payment is only deemed to have occurred if the money is available and cleared on the account indicated by us on the due date. In the case of delay or exceeding of the payment due date we reserve the right – without prejudice to our other legal rights – to declare any other payments which are not yet due or deferred as being due, and to immediately suspend any further deliveries.
- 5.3 The offsetting against any kind of counterclaims as well as the assertion of any rights of retention are excluded unless the counterclaim is uncontested or has become res judicata.
- 5.4 If the contracting party is in default with a payment, we will – without prejudice to the assertion of any other rights – apply default interest in the amount of 8 percentage points above the base rate of the European Central Bank. In addition to this we are entitled to refuse the delivery of goods from subsequent orders until all outstanding invoices have been settled in full.

6. Reservation of Title

- 6.1 Until the full payment of all debts arising from the business relation with the contracting party, including also future debts, the goods delivered remain our property. In the event of a delay in payment, other serious violations of the contract or substantial deterioration of its economic situation, the contracting party is obliged to return all goods subject to retention of title to our works at its own cost at our request, without any grace period being set or any notice of repudiation of the contract.
- 6.2 Any work on or processing of the goods subject to retention of title is considered as being carried out on our behalf, without any obligations on our part arising from that. If the goods subject to retention of title are processed with other items, in particular in the case of connection and installation, we are entitled to the co-ownership share which arises in the new item in proportion to the invoice value of the goods subject to retention of title. If the contracting party purchase the sole ownership of the new item, the contracting party already now grants us the co-ownership share of it in the ratio of the invoice value of the goods subject to retention of title to the value of the new item. The contracting party undertakes to hold the new item in custody for us, applying the diligence of a prudent businessman. Until revoked, the contracting party may sell the goods which are our property or joint property in the ordinary course of business, but may not mortgage them or provide them as securities.
- 6.3 If goods subject to retention of title are resold, the total purchase price receivable is assigned to us as a precaution until all receivables arising from our deliveries of goods are fully settled. However, if the resale includes other items, possibly following processing such as connection and installation, this assignment of future claims only applies in the amount of the invoice value of the relevant goods subject to retention of title. To this extent the contracting party already now assigns to us its future purchase price receivable. We accept this assignment.
- 6.4 If the goods subject to retention of title, possibly following processing such as connection and installation, are installed on the real estate of a

third party, the debts arising from the corresponding legal transaction are assigned to us as a precaution in the amount of the invoice value of the goods subject to retention of title.

- 6.5 Despite the assignment and our collection right, the contracting party is entitled to collect the debt, provided it does not fail in the performance of its obligations towards us and does not suffer a financial collapse. The contracting party must confirm the assignment to us in writing on demand and must provide us with the necessary details for collection of the debt.
- 6.6 If the value of the securities assigned to us above exceeds our receivables arising from the business relation with the contracting party by a total of more than 20 %, we are obliged to reassign this amount to the contracting party on demand. We reserve the right to choose the securities to be released.
- 6.7 If the goods subject to retention of title or the securities assigned to us above are at risk due to compulsory execution measures by a third party or in any other way, the contracting party will make known our rights in the matter and immediately inform us by handing over to us the necessary documents for us to intervene.

7. Miscellaneous

- 7.1 The place of jurisdiction for both parties is Nuremberg if the contracting party is a merchant or meets the other requirements of Section 38 Para. 1 of the Code of Civil Procedure (ZPO) or does not have a general jurisdiction within Germany. The legal relations between the parties are subject to the law of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 is excluded.
- 7.2 Verbal agreements which deviate from the above terms and conditions must be confirmed by us in writing to be valid. This also applies to any supplements or amendments to these terms and conditions, as well as to the cancellation of this clause requiring the written form.
- 7.3 If any parts of these provisions are legally ineffective or incomplete, this does not affect the validity of the remaining provisions.