

General Terms and Conditions of IDS Imaging Development Systems GmbH 07/2009

Our following General Terms and Conditions apply only for companies as defined by Section 310 (1) German Civil Code (Bürgerliches Gesetzbuch), public law bodies or public special funds

1. In General

1.1 All business transactions with the Purchaser – including those as part of future business relationships - are subject exclusively to the following General Terms of Sale and Delivery (hereinafter referred to as "Terms of Business"). Any differing Purchaser terms of business shall only be constituent to the contract insofar as we have provided our express written permission in respect thereof.

1.2 These Terms of Business regulate the purchase and delivery of computer systems including periphery equipment and corresponding accessories as well as software and other products "hereinafter referred to as "Products" in brief).

2. Quote, order confirmation

2.1 Our price quotes are non-binding inasmuch as they can be revoked until order confirmation insofar as we have not specified a specific time limit in our quote. Illustrations, drawings, weight and performance details in quotes are approximate values and are only binding as such. Technical and other quality alterations to contractual items by us are permitted insofar as this can be deemed reasonably acceptable for the Purchaser.

We reserve right of ownership and copyright to price quotes, drawings and any other documentation in respect of quotes made. These documents may only be made accessible to third parties inasmuch as this is unavoidable for contractual performance. The documents are to be returned on request in the event of no contract being reached.

2.2 Orders for the delivery of Products must be in writing to be valid. This requirement for written form is also deemed to have been met if the order has been confirmed by us in writing. Our invoice shall be regarded as confirmation of order in the event of immediate order fulfilment.

Verbal subsidiary agreements or contractual amendments shall only be constituent to the contract if they have been recorded in writing and signed by both parties or if they have been confirmed by us in writing.

3. Despatch, delivery, deadlines

3.1 We will undertake at Purchaser's expense despatch of Products to a location specified by the Purchaser.

3.2 Unless otherwise instructed in writing and in good time, we will insure the Products against transport damage on behalf of and expense of the Purchaser. Irrespective of any transport insurance, all risks are transferred to the Purchaser as soon as the Products leave our warehouse or the warehouse of our suppliers in the case of direct deliveries by being handed over to the forwarders, haulage company or any other person or institution appointed to carry out delivery.

3.3 Delivery details contained in our price quotes and order confirmations are understood to be expected delivery deadlines that may be exceeded by us insofar as our

suppliers do not supply us in good time or should any other circumstances arise through no cause of our own such as cases of force majeure that prevent us from delivering in time. Adherence to delivery deadlines shall be subject to the Purchaser meeting in good time and in full all contractual obligations, in particular payment obligations, or any other cooperation or information obligations necessary for contractual fulfilment, otherwise we are entitled to extend any agreed delivery deadlines appropriately. Delivery deadlines are deemed to have been met if the Products have been handed over to a person or institution appointed with carrying out delivery within a set period.

3.4 Our liability for delay shall only apply in cases where premeditation or gross negligence have been proven by the Purchaser.

The Purchaser's right to withdraw from the contract shall remain unaffected in cases of impossibility of performance or delay after setting an appropriate deadline of least four weeks.

3.5 Force majeure such as excusable works stoppages, strikes, lockouts, wars and other events upon which we have no influence, entitles us to postpone the delivery date accordingly or split available reduced quantities among several purchasers proportionately or withdraw from the contract in part or whole. In these cases, the Purchaser may also withdraw from the contract at the latest eight weeks after the agreed delivery date.

3.6 We are entitled to withdraw from the contract or demand compensation for non-fulfilment without detriment to legal or contractual rights if, despite being set a deadline, the Purchaser fails to fulfil in part or whole own contractual obligations, including those cooperation obligations necessary for fulfilment of the contract.

3.7 If in question, delivery periods specified by us will be calculated from the date of order confirmation

4. Default in acceptance, repudiation of contract

4.1 In the event of the Purchaser refusing to take delivery of goods ordered from us or if the Purchaser declares withdrawal from the agreement without just cause, we are entitled to withdraw from the agreement and charge 25 % of the net order value as lump-sum compensation.

5. Preparation of installation and operating resources

5.1 Preparation for installation and the necessary resources for power supply shall be provided by the Purchaser at own expense and responsibility prior to delivery of the Products. The resources must comply with existing trade and industry standards. We will provide technical connection. The Purchaser will ensure that trained operating personnel are provided in good time.

5.2 The Purchaser will only use data carriers, operating resources and other equipment-related accessories that we have approved through inclusion in our tender of delivery. Liability on our part shall be excluded under all circumstances in the event of non-compliance.

6. Prices and payment terms

6.1 Unless otherwise stated, prices are exclusive of VAT (Value Added Tax). In the event of contractual delivery being made more than four months after agreement being reached, we are entitled to charge valid prices on the day of delivery plus VAT at the current rate – insofar as no other explicit agreement has been reached.

Prices apply for despatch ex Obersulm warehouse.

Unless otherwise agreed, costs for freight, postage, packing and insurance are not included in the prices and are to be borne by the Purchaser.

6.2 All deliveries are to be paid without any discount as defined in the terms of payment.

6.3 In the event of facts coming to our knowledge giving rise to doubt the creditworthiness of the Purchaser, e.g. payment stop, application for bankruptcy or composition proceedings, we shall be entitled to declare all outstanding invoice amounts due with immediate effect and/or demand prepayment or security for any future deliveries.

6.4 Cheques and bills of exchange will only be accepted on account of payment; bills of exchange will only be discounted by special agreement. Discount and bank charges are to be borne by the issuer of the bill. Payments are only deemed paid upon unconditional credit thereof to our account. If several bills of exchange have been issued by a Purchaser and a bill is not honoured on due date, all other bills shall become due for payment with immediate effect.

6.5 The Purchaser is only permitted to offset amounts due to us against counterclaims if these have been legally established and are not legally disputed. The Purchaser cannot object to any due payment entitlements from the delivery of hardware that base on alleged errors, poor performance or delays with regard to a separately agreed delivery of software.

6.6 We are entitled to demand interest at 5 % above the respective official bank rate of Deutsche Bundesbank (*German Federal Bank*) in the event of the Purchaser being in default of payment in part or whole; we reserve the right to assert any further damages resulting from delayed performance.

Our statutory right to withdraw from the agreement or assert claims for damages for non-fulfilment remain unaffected by this. We are not obliged to continue supply of any remaining part-delivery in the event of part-deliveries not being paid upon becoming due.

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7. Reservation of ownership

7.1 We reserve the right of ownership of articles supplied by us until all amounts due from the contractual relationship have been settled. The Purchaser shall notify us immediately of any acts by third parties in respect of any products subject to reservation of ownership (conditional commodities). Any costs incurred by us as a result of third party acts are to be borne by the Purchaser.

7.2 The Purchaser is only entitled to dispose of conditional commodities in the course of due and proper business transactions for cash, otherwise only upon due notification and conveyance of the existing reservation of ownership. Assignment as security or pledging of conditional commodities is not permitted.

7.3 The Purchaser assigns herewith all and any future purchase price receivables from the re-sale of the conditional commodities to the extent of our respective claims and agrees to notify us upon demand of the names of third party debtors and the extent of those debts. Until revoked, IDS is authorised to collect any assigned purchase price receivables. Any costs incurred by us through collection of the assigned purchase price receivables shall be borne by the Purchaser.

7.4 In the event of any processing or use of conditional commodities as part to form a whole, our reservation of ownership shall extend to cover proportionately the respective part of the newly created whole.

7.5 The Purchaser shall hand the conditional commodities back to us upon demand in the event of the Purchaser being in default of payment. We are entitled to charge appropriate compensation set by us in compliance with art. 315 German Civil Code (*BGB – Bürgerliches Gesetzbuch*) for any occurring loss of use or value in the event of conditional commodities being taken back by us and simultaneous declaration of withdrawal from the agreement.

7.6 If in question, assertion of reservation of ownership is not tantamount to a withdrawal from the agreement. The right to recover possession can not be counteracted with a right of retention. After an appropriate period, we shall be entitled to dispose of elsewhere any articles that have been repossessed by us and provide the Purchaser with a new delivery within an appropriate delivery period.

8. Warranty

8.1 Customer complaints are only acceptable on condition that the customer has complied in due and correct manner with the provisions of Section 377 German Commercial Code (*HGB – Handelsgesetzbuch*) for examination and complaint procedures.

8.2 Insofar as the purchased item is faulty, we are entitled to provide rectifying performance at our discretion in the form of a repair of the fault or supply of a new fault-free item. In the case of fault rectification, we are obliged to bear all costs involved in fault rectification, especially transport, travel, work and material costs insofar as

these are not increased by the purchased item being brought to another place than the place of fulfilment.

8.3 In the event of non-success of rectifying performance, the purchaser is entitled at own discretion to cancel the purchase or demand a price reduction. We are allowed three attempts at rectification.

8.4 Under the terms of statutory provisions, we are liable insofar as the purchaser is claiming for damages that base on premeditation or gross negligence, including premeditation or gross negligence by our representatives or vicarious agents. Insofar as we are not charged with any premeditated contractual infringement, our liability for compensation is limited to the foreseeable, typical damage occurrence.

8.5 We are liable pursuant to statutory provisions insofar as we culpably infringe a major contractual obligation; in this case, however, the liability for compensation is limited to the foreseeable, typical damage occurrence.

8.6 Liability for culpable injury to life or limb or health remains unaffected; this also applies to binding liability pursuant to product liability law.

8.7 All liability is excluded with the exception of the above.

8.8 The statute of limitations for customer complaints is one year from the date of the passage of risk.

8.9 The statute of limitations in the event of a supply recourse pursuant to Section 478, 479 German Civil Code (*BGB – Bürgerliches Gesetzbuch*) remains unaffected; this is 5 years calculated from the delivery of the faulty goods.

9. Joint and several liability

9.1 Any further liability for compensation as foreseen in section no. 8 is excluded – irrespective of the legal nature of the claim being asserted. This also applies in particular for claims for damage for *culpa in contrahendo*, other violations of duties or tortious claims for compensation for damage to property pursuant to Section 823 German Civil Code.

9.1 Insofar as liability for compensation on our part is excluded or restricted, this also applies in respect of the personal liability for compensation by our executives, employees, workers, representatives and vicarious agents.

10. Area of use, export ban

10.1 As long as the products are subject to our reservation of ownership, they may only be used within the Federal Republic of Germany and may not be exported without our prior written permission.

10.2 In the event of export, the vendor is responsible for adherence to any – including international – export regulations. Articles supplied by us are subject to German export regulations. The Purchaser is respon-

sible for adhering to these regulations and in particular for obtaining any export authorisation. The Purchaser is obliged to compensate us for any damages arising as a result of an infringement of export regulations.

10.3 When goods supplied by IDS Imaging are exported by the purchaser, the purchaser is responsible for compliance with all laws, rules, trademark and patent rights applicable at the destination. IDS can not be held accountable for any liability claims."

11. Final provisions

11.1 Supplements or amendments to these terms and conditions are only valid if in writing.

11.2 In the event of individual provisions to these terms and conditions being or becoming void, it shall have no effect on the validity of the remaining provisions. Any provision that is null and void shall be replaced by a provision that is as close as possible to the actual purpose being sought by the contractual parties.

11.3 Venue for all disputes arising from the contractual relationship shall be Heilbronn, Germany.

11.4 The contractual relationship shall be subject to German law under all circumstances.