

General terms and conditions of delivery, performance and payment of Testo Sensor GmbH

1. General

Our contracts are based exclusively on the following terms and conditions, unless deviations to this rule have been expressly approved by us in writing. Other terms and conditions of contract will also be inapplicable in those cases in which we do not object to them and the contract is still implemented.

2. Formation of the contract

Quotes provided by us are without obligation. Orders shall only be binding on us if we have confirmed these or fulfil them by sending the goods or providing the service; oral side agreements shall only be binding on us if we confirm these in writing.

3. Prices

Our prices are ex factory Lenzkirch excluding packaging and transportation costs. Applicable statutory VAT will be charged in addition.

The prices applicable on the date of delivery or service provision will apply in terms of the prices calculated in all cases unless an agreement on a fixed price has been confirmed by us in writing.

4. Payment

Payments must be made without any discount to our point of payment free of transaction charges to us within 30 days of the invoice date. Tool costs shall be payable immediately without any deductions.

In the event that a payment period is not met we shall charge interest of 8% above the basic interest rate, while reserving the right to assert claims for further damage.

Any deposit of bills of exchange shall require our consent. Charges and costs shall be borne in full by the purchaser and shall be due for immediate payment. The purchaser will also bear the risk of any timely presentation and lodging of a protest.

In the event of default of payment and of justified doubts regarding the purchaser's ability to pay or creditworthiness, then – without prejudice to our other rights – we shall be entitled to demand collateral or advance payments for outstanding deliveries and services or to make deliveries and provide services solely upon cash on delivery or cash in advance, as well as to require immediate payment of all claims from the business relationship.

The purchaser shall only be entitled to a right of set-off or retention in relation to undisputed claims or those which have been determined as final and absolute by force of law.

The customer shall not be entitled to assign claims against us.

5. Delivery and performance periods

Delivery and performance periods are only binding on us if they are expressly agreed in writing. Other statements on times and periods shall not be binding and may be exceeded to a reasonable extent.

The point in time at which the delivery leaves our factory shall be used for the purposes of determining compliance with agreed delivery periods.

The delivery and performance period shall be reasonably extended in the event of measures within the scope of industrial disputes, particularly strikes and lockout, and in the event of unforeseen obstacles which are outside of the supplier's will, provided that these obstacles demonstrably have a significant impact on completion or delivery of the delivery item or the performance or service. This also applies if these events affect our sub-suppliers.

If agreed periods are exceeded then the purchaser may set a grace period of at least 3 weeks and then withdraw from the contract if this grace period expires with no successful result. Section 9 shall apply in relation to compensation.

6. Transfer of risk

Risk will be transferred to the purchaser no later than when the delivery parts are shipped (unless agreed otherwise by contract), including in cases where partial deliveries are made or the supplier is responsible for any other performance.

If the shipment is delayed as a result of circumstances for which the purchaser is responsible, then risk shall be transferred to the purchaser from the date that the items are ready for shipment.

7. Retention of title

Title to the goods sold shall remain with us until our claims from the business relationship with the purchaser have been paid in full.

The retention of title also extends to the full value of the products arising as a result of processing, mixing or combining our goods, whereby we shall be considered to be the

manufacturer. If goods are processed, mixed or combined with goods belonging to third parties whose title also persists then we shall acquire co-ownership at the ratio of the invoice values of these processed goods.

The purchaser shall be entitled to dispose of the goods sold in the ordinary course of business unless the purchaser is in default of payment to us. The goods subject to the retention of title may not be pledged or assigned as collateral.

The purchaser hereby assigns to us as collateral the claims against third parties arising from the resale at their full amount or at the amount of any co-ownership by us. The purchaser shall be entitled to collect these on our account until this authorisation is cancelled or until discontinuation of their payments.

Seizure by third parties of the goods and claims belonging to us must be communicated to us by registered letter by the purchaser without delay.

In the event that the customer acts in breach of contract – in particular in the event of default of payment – we shall be entitled to take back the goods subject to the retention of title at the customer's expense. The customer hereby assigns to us their rights of surrender against third parties for this purpose.

Exercising the right of retention of title shall not represent a withdrawal from the contract.

In the event that the value of the collateral in place for us exceeds our claims by more than 20% overall, then we shall at the customer's request release collateral at our discretion.

8. Warranty

The warranty period for all services sold and provided shall be in accordance with the statutory regulations unless otherwise agreed in writing.

In the event of justified complaints we shall at our discretion either rectify the defects or supply perfect goods. The purchaser shall be entitled to a reduction in the purchase price only once rectification of the defect has failed or defective goods have been delivered once again. Unless the defect is insignificant, the customer may also withdraw from the contract and/or demand compensation within the framework of section 9 below.

The purchaser must give us the opportunity to rectify the defect which is the subject of the complaint; we shall be released from the warranty obligation if the purchaser refuses to do this.

If the customer has failed to observe the usage instructions when using the goods and/or has interfered with or implemented changes or repair work to the goods then they shall be under an obligation to prove that the defect is not based on this fact.

The purchaser must comply with their obligations under the contract, in particular the agreed payment terms. However, if the contract is within the framework of the purchaser's business operations, then the purchaser may only withhold payments if notification of defects is provided in relation to which there can be no doubt regarding the justification for these.

9. Compensation

We shall only be liable for compensation on any grounds whatsoever:

- in accordance with the Product Liability Act;
- in the event of wilful intent;
- in the event of gross negligence on the part of owners, legal representatives or executives;
- in the event of fraudulent intent;
- in the event of a failure to comply with a warranty that has been accepted;
- on account of culpable injury to life, limb or health; or
- on account of the culpable breach of an obligation which is so essential that achieving the contractual purpose is at risk.

In the event of a breach of essential contractual obligations we shall also be liable for gross negligence on the part of non-executive employees and in the event of slight negligence. In the latter case the claim for compensation shall be limited to the invoice value of our quantity of goods directly involved in the event causing the damage, provided that this is permissible in law. However, this claim for compensation shall in any case at least be limited to foreseeable damage which is typical for the contract.

Further claims for compensation shall be excluded.

10. Place of jurisdiction

If the purchaser is a registered trader the sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Freiburg im Breisgau or at our discretion the purchaser's general place of jurisdiction.