

## Terms and Conditions of Sale SBT Instruments A/S



The acceptance of our tender includes the acceptance of the following terms and conditions, which are always an inseparable part of any contract or agreement, accepted by us. We will supply goods and certain services only on the terms and conditions described herein.

**1. Tender and Confirmation:** Any tender is subject to confirmation and is submitted without obligation unless agreed to the opposite in writing. No offer or contract shall be constituted unless an order is accepted in writing by us by means of an order confirmation. Verbally agreed alterations to order specifications must be confirmed in writing by us for validity.

**2. Limits of Contract:** Our tender and order confirmation includes only such equipment, products, accessories and work as specified therein.

**3. Drawings etc.:** All illustrations, drawings, specifications, instructions, manuals etc. supplied by us shall be used by the buyer for its specific purpose only and shall not be revealed to any third party. The information stated in the said documentation as well as in our letters, tenders, order confirmations, catalogues or other publicity material shall be regarded as a guidance only and is not binding to us unless stated to be so in writing.

**4. Specification:** We reserve the right, at any time, to carry out modifications to designs and specifications of purchased goods provided the modifications do not materially reduce the buyers possibilities of utilizing the purchased goods.

**5. Performance:** We will not accept any liability for failure to attain any performance figures mentioned or quoted by us unless we have specifically guaranteed them in writing.

**6. Prices, Taxes and Duties:** Unless otherwise specified in our tender, quoted prices are firm and valid for thirty (30) days from the date of the tender. The price being firm is however conditional that the goods may be delivered not later than 90 days from the date of the tender. In excess of the price for the purchased goods and services, the buyer is liable to pay VAT as well as any tax, fee or duty which is or might later be imposed on the purchased equipment.

**7. Terms of Payment:** Terms of payment are net cash in DKK on the due date. In the event that any amount payable to us is not received by us on the due date, we reserve the right, without prejudice to any other right:

- To charge the buyer 15% interest for each month that the amount remains unpaid
- To suspend our performance of the contract by giving notice to the buyer in writing and
- To terminate the contract by giving further notice to the buyer in writing

Once the equipment has been taken into use, possible defects of the supply do not entitle the buyer to delay payments. Possible defects will be corrected in accordance with § 12.

We reserve the right to stop the manufacture of an order and to withhold the supply of equipment, products, service and support in case due amounts are not paid.

**8. Retention of Title / Right of Property:** Property in the equipment shall not pass to the buyer until payment in full for the same has been received by us. Risk in the equipment shall pass to the buyer upon delivery thereof. As far as machine software, user orientated software, software packages and tools are concerned, the buyer acquires the right of using the software only. The copyright is not transferred.

**9. IP rights to SBT technology:** Any invention done by the buyer or with input from the buyer that leads to improvements of SBTs products or a development of SBTs technology, products, or services does not give the buyer any IP rights and must be transferred to SBT without payment. All IP-rights related to SBT technology, products or services, present and future, are owned by SBT.

**10. Loss or Damage in Transit:** When the price quoted includes delivery cost insurance freight (C.I.P.) other than at our works, we will repair or, at our option replace free of charge, goods lost or damaged in transit, provided that we are given written notification of such loss or damage within such time as will enable us to comply with the carriers conditions of carriage as affecting loss or damage in transit. When the quoted price does not include delivery other than at our works, shipment is executed at the buyer's risk and cost.

**11. Delivery:** The time of delivery shall be calculated from the date on which the buyer and we have agreed all necessary details as to the extent and contents of the goods, inclusive of the contents and specification for the software and any down payment has been received by us. Any quoted time or date for dispatch or delivery is an estimate only and is calculated by reference to whichever shall be the later of the date of receipt by us of a written order to proceed or of all necessary information, drawings and specifications to enable us to put the work in hand, inclusive of any down payment. We will use our best endeavors to dispatch by the date given, but will not accept any liability for failure to do so. The date for dispatch or delivery shall be extended by a reasonable period, if delay in dispatch or delivery is caused by instructions or lack of instructions from the buyer or by any cause beyond our reasonable control, inclusive of war, industrial dispute and any other force-majeure including failing supplies from our suppliers. A possible delay in delivery does not entitle the buyer to cancel an order or to refuse receipt of the ordered goods, unless the delivery delay exceeds 60 days. We accept no responsibility or liability for delays in delivery as a result of overdue payments.

**12. Installation:** The buyer will provide the necessary labor, sufficient mains and electricity installations, all cables and cabling, sufficient earth connections and, if necessary, suitable products for testing purposes. If technicians are required our technicians must have free access to the installation site and be able to perform their job without being hindered or delayed by others. The buyer shall provide and pay for all necessary permissions from Public Authorities or others.

**13. Hardware Defects after Delivery:** We will, at our choice, repair or supply of a replacement for products delivered with hardware defects which under proper use appear in the equipment within a period of twelve (12) months after the date of delivery and which arise solely from faulty design, materials or workmanship, provided that defective parts have been returned to us if we have so required. The risk and cost of returning such parts and the risk and cost of delivering the repaired or new parts shall be carried by the buyer. Our liability under this clause shall be in lieu of any warranty or conditions implied by law as to the quality or fitness for any particular purpose of the equipment. The warranty period for parts or equipment replaced under warranty shall be twelve (12) months from the date of the invoice of the original part or equipment. We are not liable for defects caused by, or damage resulting from improper use or operation, improper or insufficient maintenance, designs or

materials stipulated by buyer, use or connection of machinery, equipment or software not supplied by us, technical interference in the equipment done by other than our technicians, insufficient power supply, earth connection, cabling or accommodation, use of the equipment outside its application or physical specifications or violence, overload, fire, flood, excessive mains noise, excessive EMI/RFI, welding lightning or similar.

**14. Liability:** We are only responsible for the capacity and the performance of the goods supplied being sufficient and/or suitable for the buyer's purpose, provided the buyer shall have given us full and accurate particulars, in writing, of the buyer's requirements in this respect and of the conditions under which the equipment will be required to operate. SBT Instruments A/S shall under no circumstances be liable for loss of production, loss of profit or any other consequential loss. We maintain a reasonable level of General and Product Liability Insurance cover. The buyer, however, is responsible for Occupier's Liability Insurance and the provision of safe working conditions on the buyer's premises. We can only accept liability for personal injury and damage to property if caused by the negligence of ourselves or our servants. In no circumstances shall we be liable if the equipment delivered under this contract has been altered or modified in any shape or form by buyer, his employees, or any third party. In case our equipment causes physical personal injury or damage to property, due to a defect in the equipment, we undertake responsibility for that, provided this is imposed upon us by a court. Our total liability for personal injury and damage to property shall be equal to the damages or losses suffered, but shall not exceed DKK 200,000. In no circumstances shall we be liable for consequential loss of any kind suffered or claimed by the buyer or any third party, and without prejudice to the generality of the foregoing, we shall not be liable for loss of contracts or profits or any other losses whatsoever, claimed as arising from the incorrect measuring, recording or processing of data and/or the non-functioning of any of the equipment.

**15. Patents:** In case the proprietor of a Patent, Copyright or Industrial Design, in force in the country in which delivery of the equipment to the buyer has taken place, issues a claim against the buyer of goods supplied by us which may be infringing the Patent, Copyright or Industrial Design in question, the following shall apply. We shall reply or seek to negotiate for settlement of the claim provided the buyer has given us notice in writing at the earliest possible opportunity permitting us at our expense to conduct any litigation that may ensue and engage in negotiations for the settlement of the claim. In case goods supplied by us infringes a Patent, Copyright or Industrial Design, which makes the buyer's further use of the goods impossible, or in case we have settled the claim with the proprietor, we shall, at our own expense choose to apply one of the following solutions:

- Secure the buyer's on-going use of the goods in unchanged condition
- Exchange the goods with non-infringing goods
- Modify the goods to become non-infringing goods
- Take back the goods and refund the purchase price at its depreciated value at the time of taking the goods back. This depreciation takes place by equal amounts for every year of the lifetime of the goods as determined by us.

The above terms represent our total liability stemming from claims made in connection with infringement of Patents, Copyrights and Industrial Designs.

**16. Copying of Software / Use of Software:** All software and associated documentation supplied by us is covered by Copyright and may not be copied for any purpose.

**17. Right to Use:** For those products (software) for which we transfer the right to use only, it is agreed that the wording "sell" and "buy" or similar wording or derivatives thereof shall mean "transfer the right to use", and "accept the right to use". "Seller" and "buyer" or similar wording or derivatives thereof shall mean "transferor" and "recipient" of the right to use.

**18. Export:** If the buyer or any of the buyer's customers intend to export goods, the buyer shall obtain our consent in writing, having notified us in writing, as to which country the exportation is intended. If the exportation takes place without our written consent any liability we may have in connection with the goods, inclusive of Product Liability becomes the liability of the buyer only. We cannot be committed or ordered to pay any compensation or damages to the buyer or any of the buyer's customers, or to any third party, as a consequence of the buyer or any of the buyer's customers exporting SBT Instruments A/S goods without our written consent. The buyer is responsible for obtaining any necessary export permission or license from the proper Authorities if the buyer intends to export SBT Instruments A/S goods to any country for which such permission or license is required.

**19. Resale:** The buyer declares that his repeated or continuous purchases of SBT Instruments A/S goods, meant for resale, shall never result in the buyer claiming to be a dealer, sole dealer, agent, distributor or similar of SBT Instruments A/S or its goods. The buyer declares not to have such status, neither in the case of the buyer's name and address being listed in advertisements, magazines, sales literature or similar as one of SBT Instruments A/S's trade connections or similar. The buyer declares to be aware of and consent to the understanding and fact, that status as dealer, sole dealer, agent, distributor or similar, with the associated rights and obligations for the parties, exists only, provided the buyer and we have entered into a Distributor Agreement by signing a SBT Instruments A/S Standard Distributor Agreement form. We reserve the right to terminate the co-operation and trade with any buyer who buys or has bought SBT Instruments A/S goods for the purpose of reselling the same without any notice and without paying any compensation, damage or the like whatsoever, irrespective of the length of the trade relation or the volume of the trade. We cannot be committed or ordered to pay any compensation or damage whatsoever to the buyer who buys or has bought SBT Instruments A/S goods for the purpose of reselling the same as a consequence of terminating the co-operation and trade as described above.

**20. Cancellation:** Cancellation or suspension of an order or a contract, in whole or in part, is not possible without our agreement in writing.

**21. Application Law:** Above conditions of sale shall always form an inseparable part of any contract or agreement that we may accept and shall in any respect and for any purpose be subject to and construed in accordance with Danish law. Any disagreement or claim that might arise out of this contract shall be settled, by "Sø- og Handelsretten i København". Work under contract shall, as far as may be reasonable practicable, continue during the legal proceedings and no payments which are or shall become due, shall be withheld on account of such proceedings.