

General Conditions of Sale

1. General provisions

1.1 These General Conditions of Sales shall be binding if declared applicable in the offer or confirmation of order or as soon as the customer has placed an online order.

Any other terms defined by the customer are only valid if they have been expressly accepted by INFICON in writing or electronically.

1.2 All offers are valid for 30 days from the date of quotation, unless INFICON states otherwise in writing.

1.3 Orders shall only be binding if confirmed in writing or electronically by INFICON. If no confirmation of order is issued, the invoice shall serve as confirmation of order.

1.4 If any one or more of the provisions of these General Conditions of Sales or any part or parts thereof shall be declared or adjudged to be illegal, invalid or unenforceable under any applicable law, such illegality, invalidity or unenforceability shall not affect the enforceability of the remainder of these General Conditions of Sales and the illegal, invalid or unenforceable provision shall be replaced by a new provision the content of which shall be as close to the legal and economic effect of the replaced provision as possible.

2. Placing of order

2.1 To be effective, orders must be placed in writing, electronically or via INFICON online store.

2.2 The order must contain all information relevant to INFICON such as number and date of INFICON's offer, salesperson etc.

2.3 To place an order via the INFICON online store, the customer can register on the INFICON Internet Website and open a personal account. However, it is also possible to place orders without opening an account. In this case, personal data is only used for processing the corresponding order. Irrespective of how the order is placed, the information required for registration has to be complete and correct. Only persons over the age of 18 years may place orders. The password set up by the customer in the registration process must be kept strictly confidential and not be disclosed to third parties. Customers are responsible for all actions carried out on the Website under their password, even without their knowledge. If any goods are returned to INFICON for reasons other than warranty, the customer will assume the corresponding costs and risk. The customer may at any time refuse to receive advertising mail from INFICON by sending an E-Mail or letter to the INFICON Webmaster.

2.4 Online transactions between customers and INFICON are subject to the applicable, mandatory legal provisions relating to online trading.

3. Scope of supply and services

3.1 Online transactions between customers and INFICON are subject to the applicable, mandatory legal provisions relating to online trading.

3.2 The offer of products in the INFICON Webshop is subject to availability. If a product ordered at the Webshop is not available, INFICON will inform the customer accordingly.

4. Technical documentation

4.1 Sales brochures and catalogues are not binding unless expressly stated otherwise. Specifications in technical documents are only binding as far as they have been expressly guaranteed.

4.2 INFICON reserves all rights to any technical documentation supplied to the customer. Without prior written consent of INFICON, such documentation shall neither in whole nor in part be disclosed to third parties or used for any purposes other than those for which they have been supplied to the customer. In particular, the customer is not entitled to reproduce or replicate any assemblies, components or parts specified therein.

5. Confidentiality

5.1 Each party shall keep confidential the manufacturing and business secrets as well as any other proprietary information received from the other party to the contract and shall neither directly nor indirectly disclose them to any third party whomsoever, nor publish them in any manner whatsoever nor use them for any other purpose, in particular but without limitation, for the reproduction or replication of machines, systems, components and parts thereof.

5.2 Data required for processing online orders is saved and, within the scope of the business transaction, transmitted to the company entrusted with the delivery of the ordered goods. Apart from that, personal data transmitted is not passed on to any third parties except for credit risk assessment purposes. Personal data transmitted to INFICON may be used for customer care purposes.

5.3 Order-related and other correspondence of INFICON may be transmitted electronically. INFICON explicitly points out that data transmission via e-mail can pose security risks such as virus transmission, damage to data, loss of data or access by third parties, which are not under the influence or control of INFICON. By placing an order, the customer allows INFICON to send documents and other data by unencrypted e-mail.

6. Norms and standards in force in the country of destination and safety and protection features

6.1 The goods are designed and manufactured in accordance with the European norms and standards (EC marking) unless stipulated otherwise in writing.

6.2 The customer shall inform INFICON in writing of all other safety and operation standards in force in the country of destination at the latest when placing the order. The customer shall bear all costs resulting from any modifications or additions to the products required to comply with standards and regulations of which INFICON has not been advised and to which INFICON has not agreed.

6.3 In case of resale or transfer of goods the customer is obliged to make provisions to ensure that the goods meet the requirements, standards and regulations to be observed in the new jurisdiction and that all manuals and product related specific documents are updated accordingly for the operation of the current product version.

7. Prices

7.1 Prices are net, ex works Balzers, Liechtenstein according to INCOTERMS 2010, exclusive of value added tax, sales tax and packing, unless stipulated expressly otherwise in INFICON's offer.

7.2 Payment shall be made in freely available Swiss francs without any deductions whatsoever.

7.3 Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the customer. Likewise, the customer shall bear any and all taxes, fees, levies, customs duties and the like which are levied under or in connection with this contract or shall refund them to INFICON against adequate evidence in the event that INFICON is liable for them.

7.4 The prices will be adjusted appropriately if:

- the term of delivery has been subsequently extended due to any reason for which the customer is responsible, or
- the nature or scope of the agreed supplies or services has changed, or
- the material or design has undergone changes because the information and/or documents provided by the customer were not in conformity with the actual situation or were incomplete.

8. Terms of payment

8.1 Payments have to be effected in accordance with the confirmation of order or invoice as the case may be. Orders placed via INFICON Webshop have to be paid in advance by credit card

or another safe payment system made available in the INFICON Webshop. Payment will be deemed to be made when the total price agreed on has been paid to INFICON in freely available Swiss francs.

- 8.2 No interest will be reimbursed for advance payments.
- 8.3 Any dates agreed for payment shall remain in full effect even where through no fault of INFICON delays arise in the performance of the contract. The late delivery of minor components the absence of which does not restrict the use of the goods or any rework within the scope of INFICON's warranty obligations does not affect the time fixed for payment.
- 8.4 If INFICON does not receive payment by the date stipulated, interest shall thereafter accrue on the sum due and owing and shall be charged immediately to the customer at the current base lending rate in the customer's domicile in accordance with LIBOR plus 4% p.a., provided that such rate shall not be less than 1.5% per month.
- 8.5 The retention of or deduction from payments because of complaints, disputes or claims on the part of the customer which have not been expressly accepted by INFICON is inadmissible. The customer may only set off possible counterclaims against payments due under this contract where INFICON has expressly agreed to the same in writing.
- 9. Reservation of title**
- 9.1 INFICON shall remain the owner of all goods until having received the full payments in accordance with the contract.
- 9.2 Customers shall cooperate in any measures necessary for the protection of INFICON's title. In particular, upon entering into the contract, they authorize INFICON to enter or notify the reservation of title in the required form in public registers, books or similar records, all in accordance with relevant national laws, and to fulfill all corresponding formalities, at the customers' cost.
- 9.3 During the period of the reservation of title, customers shall, at their own cost, maintain the goods and insure them for the benefit of INFICON against theft, damage, fire, water and other risks. They shall further take all measures to ensure that INFICON's title is in no way prejudiced.

10. Delivery and delivery time

- 10.1 Unless otherwise agreed, the terms of delivery are ex works Balzers (INCOTERMS 2010).
- 10.2 The delivery period shall begin as soon as the contract is entered into, the scope of supply and the specifications are defined, all relevant official formalities have been completed, payments due with the order have been made and any agreed securities have been given. The date of delivery shall be deemed to be observed if by that time INFICON has

sent a notice to the customer informing that the goods are ready for dispatch.

- 10.3 INFICON's compliance with the delivery date is conditional upon the customers' fulfillment of their contractual obligations.
- 10.4 The delivery period will be extended correspondingly in the event of any contingencies beyond the reasonable control of INFICON, irrespective of whether such contingencies occur at the premises of INFICON, the customer, or a third party. As soon as the contingencies delaying the delivery no longer exist, the date of delivery will be fixed anew in writing.
- 10.5 Unless stipulated explicitly otherwise in writing, agreed delivery dates are not binding. However, six weeks after failure to deliver by an agreed non-binding delivery date, the customer shall be entitled to request INFICON in writing to make delivery within a reasonable period. Failure to deliver within a reasonable period after the notice shall constitute late performance by INFICON.
- 10.6 Blanket orders may be scheduled over a 12 months or longer period. Unless stipulated otherwise, delivery of all goods must be accepted within 12 months of order placement. An initial firm order release of 120 days is required, with a rolling 120 day firmly booked shipping schedule to follow by the first day of each calendar month. In the event of delivery delays of more than 60 days, the customer shall inform INFICON in writing, stating the reason for the delay. INFICON may bill back the difference between the unit price billed during the last 12-month period and the quoted unit price of the quantity delivered at the actual date.
- 10.7 If expressly agreed in writing, the customer is entitled to claim liquidated damages for delayed services in so far as it can be proven that the delay has been caused by the fault of INFICON and that the customer has suffered a loss caused by such delay.
- 10.8 In the event of delayed delivery of goods or services, customers have no rights and claims other than those expressly stipulated in this clause 10; in particular, they have no right to rescind the contract. This limitation, however, does not apply to gross negligence or willful misconduct of INFICON.

11. Packaging

- 11.1 Packaging shall be charged for separately by INFICON and shall not be returnable. However, if it is declared property of INFICON, it shall be returned by the customer, carriage paid to the place of dispatch.

12. Passing of benefit and risk

- 12.1 Benefit and risk of the goods shall pass to the customer by the date of shipment ex works Balzers, Liechtenstein, at the latest, according to INCOTERMS 2010.
- 12.2 If delivery is delayed at the request of the customer or otherwise due to no fault of INFICON, the risk shall pass to the

customer at the date originally agreed for delivery ex works. From this date onwards, the goods shall be stored and insured at the customers' expense and risk and all payments shall become due at the agreed date of delivery.

13. Shipping, transport and insurance

- 13.1 All goods will be shipped in export packing via truck, air freight or a combination of these transport methods. INFICON must be notified in due time of any special requests with regard to forwarding, transport and insurance.
- 13.2 The goods shall be transported at the customer's expense and risk. The customer shall direct any complaints regarding forwarding or transport to the last carrier immediately upon receipt of the goods or shipping documents.
- 13.3 The customer shall be responsible for taking an insurance against risks of any kind.
- 13.4 The customer shall comply with all applicable domestic, foreign, import, export, safety and environmental laws and regulations and obtain all necessary security clearances for airports and cargo transport as well as governmental approvals and licenses in connection with the purchase of goods – in particular of dual use goods. In addition, the customer undertakes not to sell any dual use goods to third parties without the corresponding authorization.

14. Inspection and acceptance of goods and services

- 14.1 INFICON shall, to the usual extent, inspect all goods and services upon completion. Any further inspections requested by the customer have to be agreed upon separately and paid for by the customer.
- 14.2 The customer shall inspect the goods and services within a reasonable period and shall immediately notify INFICON of any defects in writing. If the customer fails to do so, the goods and services shall be deemed to have been accepted. Hidden defects shall be reported immediately upon their discovery.
- 14.3 INFICON shall rectify defects notified in accordance with clause 14.2 as soon as possible and the customer shall give INFICON the possibility of doing so.
- 14.4 The customer has no rights and claims in respect of any defects whatsoever in relation to goods or services other than those expressly named in clauses 14 and 15 (Warranty, liability for defects).

15. Warranty, liability for defects

- 15.1 The period of warranty is 12 months and shall commence upon dispatch of the goods ex works Balzers, Liechtenstein, in accordance with the applicable INCOTERMS 2010. If dispatch is delayed for reasons beyond the control of INFICON, the warranty period shall terminate not later than 18 months after INFICON has notified the customer that the goods are ready for dispatch. The warranty period is 24 months if the

goods are purchased exclusively for private and family use.

For replaced or repaired parts, the warranty period shall run for another period of 6 months after replacement or completion of the repair but not longer than until the expiry of a period being twice the warranty period pursuant to the preceding paragraph.

The warranty under this contract expires prematurely with immediate effect if the customer or third parties make inappropriate modifications or repairs or if the customer, in case of a defect, does not immediately take appropriate steps to mitigate the damage and give INFICON the possibility to make good such defect.

15.2 The following shall apply in respect of liability for warranted characteristics and for defects in material, design and workmanship:

INFICON makes no representation and warranty other than those regarding the technical characteristics specified in the confirmation of order or separate technical specifications expressly agreed on in writing and those regarding the material, design and workmanship of the delivered goods. Subject to the provisions of clause 14, which shall be applicable mutatis mutandis, INFICON undertakes, at its discretion and cost, to repair or replace all defective items or parts of products returned under the warranty at its earliest convenience. Any parts replaced shall become property of INFICON.

15.3 Expressly excluded from the warranty and liability of INFICON are damages caused by normal wear and tear, insufficient maintenance and incorrect handling by the customer, failure to observe the operating instructions, electrostatic effects, excessive voltage or current, excessive use, chemical or electrolytic influences, contamination, corrosion of cooling water systems of any kind, as well as any damages caused by arcing, electron beams, crucible breakage, etc., use of material, equipment and spare parts not recommended by INFICON, consumables, incorrect repair work that has not been carried out by INFICON or its agents, or resulting from other reasons beyond INFICON's control as well as in case of modifications made by the customer or improper system integration, construction, assembly and installation work not undertaken by INFICON, provided that in the event of a dispute regarding exclusion of warranty, the respective burden of proof rests on the customer.

15.4 INFICON warrants for goods and services of subcontractors requested or provided by the customer to the extent of such subcontractor's warranty and liability obligations only.

15.5 The customer shall not be entitled to any warranty, express or implied, except those specifically set forth in clauses 15.1 to 15.4. INFICON shall have no liabilities for any other claims, including

but not limited to, pecuniary or any other consequential damages. This limitation, however, does not apply to gross negligence or willful misconduct of INFICON.

16. Exclusion of further liability

16.1 INFICON makes no representation or warranty of any character with respect to infringement or to the exemption of the goods and services from third parties' protective rights.

16.2 INFICON ASSUMES NO WARRANTY, OR LIABILITY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT AS SPECIFICALLY AGREED ON IN WRITING. Without limiting the generality of the foregoing, this exclusion from liability includes, but is not limited to, claims, arising out of interference with the customer's production, expenses for downtime, lost profits, lost sales, body or property injury or any other incidental or consequential loss.

16.3 These exclusions, however, shall not apply to gross negligence or willful misconduct of INFICON.

16.4 Notwithstanding the foregoing, nothing herein shall limit INFICON's liability based on product liability, provided that the customer will indemnify INFICON for all non-contractual claims for product liability raised by third parties if the occurrence of the damages is not clearly imputable to INFICON.

17. No liability for additional obligations

17.1 INFICON is not liable for claims of the customer arising out of insufficient information or faulty advice and the like or out of breach of any additional obligations whatsoever except where caused by INFICON's gross negligence or willful misconduct.

18. Applicable law

18.1 These General Conditions of Sales shall be construed and the legal relations between the parties shall be determined in accordance with the substantive law provisions of Switzerland, with the exclusion of the conflict of law's provisions of Switzerland. The applicability of the UN Convention on Contracts for the International Sales of Goods (CISG) shall be expressly excluded.

18.2 Any dispute arising out of or in connection with these General Conditions of Sales or any related contract shall be submitted to the courts of Liechtenstein, having jurisdiction over INFICON, provided that INFICON shall always be permitted to commence any action or proceedings against the customer in any court of competent jurisdiction.

18.3 The prevailing party in any action or arbitration in relation with these General Conditions of Sales or any related contract shall be entitled to recover its actual costs and attorneys' fees and all other litigation costs, including expert

witness fees, and all actual attorneys' fees and costs incurred in connection with the enforcement of a judgment arising from any action or proceeding.