ENGLISH

INNOVATIVE TEST & MEASUREMENT SYSTEMS

TERMS AND CONDITIONS

General Terms and Conditions

Sale, delivery, software, services and rental – for business customers

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FOR BUSINESS CUSTOMERS

General Terms and Conditions

> **Note**
> This English translation is provided for information only. In case of discrepancies, the German version of our General Terms and Conditions prevails.

§ 1 Scope

1. These General Terms and Conditions (GTC) apply to all contracts of iTS GmbH ("we") for the sale and delivery of test systems, accessories and spare parts, for software, for services such as installation, commissioning, calibration, maintenance and training, and for the rental of test systems.
2. They apply only to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB), legal entities under public law and special funds under public law ("Customer"). We do not enter into contracts with consumers.
3. The Customer's general terms and conditions apply only if we expressly agree to them in text form. This also applies if we deliver in the knowledge of deviating terms.
4. These GTC apply in the version valid at the time the contract is concluded also to future contracts of the same kind with the Customer, without our having to refer to them again in each individual case. We will inform the Customer of any changes to these GTC.
5. Agreements made in individual cases (e.g. in the quotation or the order confirmation) take precedence over these GTC.

§ 2 Quotation and conclusion of contract

1. Our quotations are subject to change. Unless stated otherwise in the quotation, we are bound by the quoted prices and delivery times for 30 days from the date of the quotation.
2. A contract is concluded only upon our order confirmation in text form or upon delivery.
3. Information in brochures, on our website and in the online configurator is non-binding unless it has been expressly agreed as a quality in the quotation or the order confirmation. An enquiry via the website is not an order.
4. The scope of supply of a system is determined by the order confirmation, supplemented by a requirements or functional specification confirmed by both parties, if any.
5. Drawings, quotations, calculations and other documents remain our property; we retain all rights to them. The Customer may make them available to third parties only with our consent.

§ 3 Prices

1. Our prices are in euros, net plus statutory VAT, ex works Uedem and exclusive of packaging, freight, insurance, customs duties and other charges.

2. If more than four months lie between conclusion of the contract and the agreed delivery date and no fixed price has been agreed in the quotation, we adjust the price if the costs of materials and purchased parts or labour costs have changed after conclusion of the contract. The share of these costs in the price is decisive; increases in one cost component are offset against decreases in others. If costs decrease, we reduce the price accordingly. We will provide evidence of the change on request. If the increase exceeds 5 % of the agreed price, the Customer may withdraw from the contract within two weeks of our notification. A price adjustment clause agreed in the quotation takes precedence.

§ 4 Payment

1. Unless agreed otherwise, the following applies:
   - **Test chambers and room solutions:** 30 % upon order confirmation, 60 % upon notification of readiness for delivery, 10 % after acceptance (§ 8), but no later than 30 days after delivery if acceptance is delayed for reasons for which the Customer is responsible.
   - **Accessories, spare parts, software and services:** 14 days from the invoice date without deduction.
2. We grant a cash discount only if it has been agreed in the quotation or the order confirmation.
3. If the Customer is in default of payment, we charge default interest at the statutory rate (Section 288 (2) BGB). Further claims remain reserved.
4. If, after conclusion of the contract, we become aware of circumstances that seriously call the Customer's ability to pay into question, we may carry out outstanding deliveries only against advance payment or security. If the Customer fails to provide these within a reasonable period, we may withdraw from the contract.
5. The Customer may only set off undisputed or legally established claims. The Customer has a right of retention only with regard to claims arising from the same contract.

§ 5 Delivery and transfer of risk

1. Unless agreed otherwise, we deliver **FCA Uedem (Incoterms® 2020)**: the goods are handed over at our works to the carrier commissioned by the Customer or selected by us on the Customer's behalf. The costs of packaging, freight, insurance, export and import are borne by the Customer.
2. The risk passes to the Customer upon handover to the carrier, or upon provision in the case of collection. If handover is delayed for reasons for which the Customer is responsible, the risk passes upon notification of readiness for dispatch.
3. Partial deliveries are permissible insofar as they are reasonable for the Customer.
4. We choose the type of packaging according to the mode of transport. We do not take back disposable packaging.
5. Upon delivery, the Customer checks the consignment for externally visible transport damage, notes it on the consignment note and informs us without delay so that claims against the carrier are preserved.

6. Performance of the contract is subject to the proviso that it is not prevented by national or international foreign trade regulations, in particular export control provisions, embargoes or other sanctions. On request, the Customer provides us with all information and declarations required for export, in particular regarding the end user and end use. Delays caused by licensing procedures extend the delivery time accordingly; if a required licence is refused, both parties may withdraw from the contract.

§ 6 Delivery time and force majeure

1. Delivery times are non-binding unless we have expressly confirmed a delivery date as binding in the order confirmation. The delivery time begins with the order confirmation, but not before all technical questions have been clarified, the documents and approvals to be provided by the Customer are available and any agreed down payment has been received.
2. If we are in default with a delivery, the Customer may claim compensation of 0.5 % for each full week of delay, up to a total of 5 % of the value of the delayed part of the delivery, provided the Customer substantiates a damage. Further claims due to delay are governed by § 10; the Customer may withdraw from the contract after a reasonable grace period has expired without result.
3. Force majeure and other events for which we are not responsible – such as industrial action, official measures, disruptions in the supply of energy or raw materials, pandemics or the failure of our suppliers to deliver despite timely ordering – extend the delivery time by the duration of the hindrance plus a reasonable start-up period. If the hindrance lasts longer than three months, both parties may withdraw from the part of the contract not yet performed.
4. If the Customer does not accept delivery in time, we may store the goods at the Customer's cost and risk; after a reasonable period has expired, we may otherwise dispose of them.

§ 7 Retention of title

1. The goods delivered remain our property until full payment of all claims arising from the respective contract.
2. Before full payment, the Customer may neither pledge the goods subject to retention of title nor assign them as security. If third parties seize them, in particular by way of attachment, the Customer points out our ownership and notifies us without delay.
3. If the Customer is in default of payment, we may withdraw from the contract after an unsuccessful deadline and demand return of the goods.

§ 8 Installation, commissioning and acceptance

1. We owe installation, connection, commissioning and instruction only if they have been agreed in the quotation or the order confirmation. They are charged according to time and expenses or at the agreed fixed price.
2. At its own expense, the Customer creates in good time the conditions for installation and operation as specified in the quotation and data sheet, in particular:

- power supply, water supply with a water hardness of up to 6 °dH (approx. 107 ppm $CaCO_3$) or a water softening system, wastewater connection, compressed air and exhaust air, insofar as the system requires them;
- sufficient space including the minimum clearances, a floor with adequate load-bearing capacity as well as access and an opening through which the system can be transported;
- for test systems using water, a suitable room (e.g. wet room with floor drain).

We charge waiting times and additional journeys caused by missing conditions according to time and expenses.

3. Test chambers and room solutions are subject to acceptance – as agreed, at our works or at the Customer's premises. A record is drawn up of the acceptance. Insignificant defects do not entitle the Customer to refuse acceptance; they are recorded in the acceptance record and remedied by us.
4. Acceptance is deemed to have taken place if the Customer uses the system for testing for 14 days after completion and notification of readiness for acceptance without notifying us of a material defect in text form, or if the Customer does not declare acceptance within 14 days of our request without stating a material defect.

§ 9 Claims for defects

1. The Customer inspects the goods without delay after delivery and notifies us of apparent defects without delay in text form, and of hidden defects without delay after their discovery (Section 377 of the German Commercial Code, HGB).
2. In the event of defects, we provide subsequent performance at our discretion by repair or replacement. If subsequent performance fails, the Customer may withdraw from the contract or reduce the price in accordance with the statutory provisions. Damages are governed by § 10.
3. Claims for defects become time-barred 24 months after acceptance or, where no acceptance takes place, after delivery. This does not apply in the cases of § 10 para. 1 and in the event of fraudulent intent; the statutory periods apply there.
4. The following in particular do not constitute defects: natural wear of wear parts (e.g. nozzles, seals, filters, wipers, lamps), damage caused by unsuitable water (e.g. limescale at a water hardness above 6 °dH without softening), improper use, failure to observe the operating instructions, lack of maintenance, changes or repairs by the Customer or third parties without our consent, and the use of parts not supplied or approved by us.
5. Expenses for subsequent performance that increase because the system was moved after delivery to a location other than the agreed installation site are borne by the Customer.

§ 10 Liability

1. We are liable without limitation for intent and gross negligence, for injury to life, body or health, under the German Product Liability Act and to the extent of any guarantee we have assumed.
2. In the event of slight negligence, we are liable only for the breach of material contractual obligations – that is, obligations whose fulfilment makes the proper performance of the

contract possible in the first place and on whose observance the Customer may regularly rely. In this case, liability is limited to the damage typical for the contract and foreseeable at the time the contract was concluded.

3. Otherwise, our liability is excluded. The above provisions also apply to our legal representatives, employees and vicarious agents.
4. The Customer is responsible for test results obtained with our systems and for decisions derived from them (e.g. approval of enclosures). Our systems meet the test requirements of the standards stated in the quotation; this does not constitute a certification of the test specimen. We are responsible for suitability for further standards, test procedures or purposes only if they are expressly stated in the order confirmation.

§ 11 Software

1. We provide the Customer with the control software of our systems together with the system for unlimited, non-exclusive use on that system. It may be passed on only together with the system.
2. For the Companion App, the scope of use of the ordered edition (BASIC or PRO) as stated in the order confirmation applies.
3. The Customer may not modify, decompile or reverse-engineer the software unless expressly permitted by law (Section 69e of the German Copyright Act, UrhG). Copyright and identification notices may not be removed.
4. We provide updates at our own discretion; there is no entitlement to further development or new versions unless agreed otherwise. § 9 applies to defects in the software.
5. The Customer is responsible for the connection to the Customer's network, the IT security of its environment and the backup of its data, unless expressly agreed otherwise.

§ 12 Calibration, maintenance and training

1. We provide calibrations (DAkkS calibration by an accredited calibration laboratory or factory calibration), maintenance, repairs outside the liability for defects and training as a service. We owe professional performance, not a specific result, unless agreed otherwise.
2. Services are invoiced according to time and expenses at our respectively valid rates plus travel and incidental costs, or at the agreed fixed price.
3. We owe instruction or training only if it has been agreed.

§ 13 Rental of test systems

1. We rent out only complete test systems, not individual modules or accessories.
2. The rental period and rent are set out in the order confirmation. The minimum rental period is two months. The rent is payable monthly in advance.
3. We deliver the rental system to the Customer and collect it again after the end of the rental period; we carry out installation and dismantling as agreed. The costs of transport, installation and dismantling are borne by the Customer. The Customer creates the conditions for installation and operation in accordance with § 8 para. 2. Upon delivery and collection,

both parties record the condition and completeness of the rental system in a handover record.

4. The Customer treats the rental system with care, uses it only itself and in accordance with the operating instructions, and does not leave it to any third party. At its own expense, the Customer insures it for the rental period against damage, loss and theft at the value we state at the conclusion of the contract, and provides proof of insurance on request. § 4 para. 4 (advance payment or security in the event of doubts about the ability to pay) also applies to the rental.
5. The Customer notifies us of defects without delay in text form; we remedy them at our discretion by repair or replacement. The Customer is liable for damage caused by improper use.
6. The right to terminate without notice for good cause remains unaffected. Good cause exists for us in particular if the Customer is in arrears with more than one monthly rent or uses the rental system in breach of contract despite a warning.
7. Upon collection, the Customer returns the rental system cleaned and complete. If collection is delayed for reasons for which the Customer is responsible, the Customer owes the agreed rent for each month or part thereof; a tacit extension under Section 545 BGB is excluded.

§ 14 Final provisions

1. The place of performance for our services is Uedem, unless agreed otherwise.
2. The exclusive place of jurisdiction for all disputes arising from the contractual relationship is the court competent for our registered office in Uedem (Local Court or Regional Court of Kleve, Germany). We may also sue the Customer at its general place of jurisdiction.
3. The law of the Federal Republic of Germany applies, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
4. Translations of these GTC are for information only. The German version is authoritative.
5. Should any provision of these GTC be invalid, the validity of the remaining provisions remains unaffected. The invalid provision is replaced by the statutory provision.