

PI (Physik Instrumente) L.P. Terms & Conditions

PI (Physik Instrumente) L.P. 16 Albert Street, Auburn, MA 01501 (Dated January 20/2015)

- 1. GENERAL:** All Quotations, Products and Services provided by PI (Physik Instrumente) L.P. ("PI") are furnished only on the Terms and Conditions stated herein. All orders for PI's Products, if set forth on any forms apart from an unqualified acceptance of PI's Quotation form, are subject to written acceptance at PI's sales offices or its head office in Auburn, Massachusetts. PI reserves the right to reject any purchase orders. Any Quotations furnished by PI shall expire 30 days following the date set forth on the specific Quotation form, and may be revoked, amended or otherwise revised by PI by written notice prior to acceptance by PI.
- 2. PRICES:** All prices published by PI are subject to change without notice. Unless otherwise indicated, quoted prices are applicable only to United States sales; international sales are governed by PI's current international published price lists. Prices are exclusive of all sales and/or excise tax unless otherwise specified in writing. PI does not report, pay or collect any tax which may be imposed on the Buyer unless such charge is separately stated on the face of the invoice for such Products. Prices for Products are quoted F.O.B. Shipping Point. Quoted prices do not include shipping, duty, sales taxes, license fees, inspection fees or any other fees required for operation of the equipment unless otherwise specified.
- 3. CONDITIONS OF SALE:** The signed purchase order will be considered a binding purchase agreement between both parties. Buyers unqualified acceptance of the PI Quotation form shall constitute a signed purchase order. Acceptance by Buyer of these terms may be made either by written acceptance or by receipt by Buyer of delivery of any one or any part of the Products to be delivered.
- 4. PAYMENT:** The price for each product is based on payment in accordance with one of the following payment alternatives, to be elected at time of order (if no written election is set forth, the first alternative shall be deemed elected): a. Net 30 days from the date of invoice and subject to PI credit approval at receipt of purchase order. b. 85% net 30 days from the date of delivery, the balance on final acceptance. c. Presentation at time of order of an irrevocable letter of credit from a credible U.S. domiciled bank, providing for payment on sight 30 days from the date of delivery. Past due balances shall be subject to a service charge of the lower of 1.5% per month or the legal maximum percentage. If Buyer fails to make prompt payment, PI may cancel or delay delivery of Products, or may repossess the Products without notice, and/or avail itself of any available remedy.
- 5. DELIVERY AND SHIPMENT:** Delivery for Products will be by a common carrier of PI's selection unless otherwise noted in writing. Partial shipments are permissible. In the absence of specific shipping instructions, PI will ship by the method it deems most advantageous.
- 6. PERFORMANCE:** Dates indicated for delivery or other performance represent PI's best estimate. PI shall not be liable for any loss, damages or penalties or in any other way because of any other delay in performance or failure to give notice of any delay due to unforeseen circumstances or to causes beyond its control. For delays resulting from any such causes, performance shall be correspondingly extended.
- 7. SECURITY INTEREST:** PI hereby reserves a purchase money security interest in the Products delivered and the proceeds thereof, in the amount of the purchase price. These interests will be satisfied when the Products are paid for in full. Buyer authorizes PI to file in any applicable jurisdiction. Financing Statements executed only by PI, describing the Products sold herein as the collateral. On the request of PI, Buyer will execute Financing Statements and other instruments required to perfect PI's security interest and to pay the cost of filing or recording the same in all public offices, whenever PI deems filing or recording to be necessary or desirable. PI or its representatives may enter upon Buyer's premises at any reasonable time to inspect the Products until payment has been made in full.
- 9. REMEDIES:** Upon any default by Buyer of any obligation under this agreement, PI may declare all such obligations immediately due and payable, and avail itself in addition to any other remedies or all of the remedies of a secured party under the Uniform Commercial Code or other applicable law.
- 10. INSTALLATION AND ACCEPTANCE:** If installation and acceptance terms are required and specified in the accompanying PI Quotation related to the order, final coordination of the installation requirements shall be made by Buyer and PI no later than one (1) month prior to the scheduled date, unless otherwise agreed to in writing by PI. Buyer shall be responsible for having the building, equipment and service ready to receive the Products on the estimated delivery date. Buyer shall provide necessary labor and service to unload the Products from the transport vehicle. Installation shall be performed under the supervision of PI's installation engineer. Upon completion of the installation, PI's installation engineer shall demonstrate the Product. Each Product shall be deemed accepted by Buyer upon completion of the demonstrations showing that the Product performs according to published specifications, and Buyer agrees to execute PI's acceptance letter upon completion of such demonstration. Use of any Product by Buyer, its agents, employees or licensees, for any purpose after delivery thereof, without express written consent of PI, shall also constitute acceptance of the Product by Buyer.
- 11. WARRANTY- HARDWARE:** PI warrants each Product manufactured by it to be free from defects in material and workmanship for one (1) year from the date of shipment, unless indicated differently. Parts replaced or repaired under this warranty are warranted only for the remaining portion of the original warranty period applicable to the Product in which they are installed. Any Products purchased from PI which become defective during the warranty period will be replaced or repaired by PI at the Buyer's site or at PI's site in Auburn, Massachusetts, or at a PI designated facility, at PI's option, that being the EXCLUSIVE REMEDY under this warranty. Buyer shall promptly

notify PI of any claim, and PI shall have the option to inspect and test each item claimed to be defective at Buyer's site or request the Product to be shipped to PI's site or designated facility. Buyer shall bear all freight charges within the United States for the return of any Products for warranty repair or replacement; return freight charges will be borne by PI. This warranty does not extend to any Products that PI determines were misused or neglected in use, storage or handling; or that were modified or serviced without PI's authorization or which have had their original identification markings removed, altered or defaced. PI MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS EXPRESSLY SET FORTH IN THE ABOVE WARRANTY. IN NO EVENT WILL PI BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGE ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE PRODUCT.

12. **WARRANTY – SOFTWARE & FIRMWARE:** Unless otherwise provided in a Seller or third party license, Seller warrants that standard software or firmware Products furnished hereunder, when used with Seller-specified hardware, will perform in accordance with published specifications prepared, approved, and issued by Seller for a period of one (1) year from the date of invoice from Seller or its appointed distributor, as the case may be. Seller makes no representation or warranty, express or implied, that the operation of the software or firmware Products will be uninterrupted or error free, or that the functions contained therein will meet or satisfy Buyer's intended use or requirements.

13. **RETURNS:** In no case may Products be returned without PI's written permission, which it may grant or deny in its sole discretion. Credit returns must be in like-new condition and within thirty (30) days of shipment. Returns when applicable are subject to a minimum 25% restocking charge and up to 100% for OEM and custom manufactured items. Generally, returns will be allowed, if at all, only due to a stocking or ordering error by Buyer.

14. **PO Cancellation:** PI products are built to order, and so PO cancellations cannot be accepted once an order is started at the factory.

15. **OEM delivery schedule changes:** PI reserves the rights to grant or deny any such request. A price penalty may apply depending on the financial load it creates to PI and will be handled on a case by case basis.

16. **INDEMNIFICATION:** If any product is manufactured and/or supplied according to Buyer's drawings and specifications, Buyer shall assume all responsibility for, and shall indemnify and hold PI harmless from any liability resulting from a charge or allegation that such Product infringes or contributes to the infringement of any Letters Patent.

17. **LICENSED SOFTWARE & FIRMWARE:** Use of Products comprised of software and firmware may be subject to Buyer's acceptance of additional terms and conditions set forth in separate Seller or third-party license agreements that will control to the extent necessary to resolve any conflict with the terms and conditions stated or otherwise referenced herein. In the absence of a separate Seller's license agreement, Buyer is granted a non-exclusive, non-transferable license to use provided Seller's software or firmware only in object code form and solely in conjunction with Seller-provided hardware Products, with no rights to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the software or firmware.

18. **MISCELLANEOUS:** Buyer shall be responsible for obtaining all permits and for meeting all other requirements of any kind whatsoever relating to state and local codes, regulations and ordinances. All contracts for sale of Products by PI shall be interpreted under and governed by law of the State of Massachusetts, United States of America without regard to conflicts of law principles. The Terms and Conditions as set forth herein shall constitute the entire Agreement between Buyer and PI with respect to the Products ordered. PI shall not be bound by any terms in the Buyer's order which are inconsistent with the terms herein set forth. These Terms and Conditions supersede any other agreement between PI and Buyer in connection with the Products and services hereof. They cannot be modified, supplemented or rescinded except by writing, duly signed by the authorized signatures of both parties. If any part of these Terms and Conditions stated herein are held void or unenforceable, such part will be treated as severable, leaving valid the remainder of the Terms and Conditions notwithstanding the part or parts found void or unenforceable. In case of any breach or default by Buyer, PI shall be entitled to all its costs to enforce any or all of these Terms and Conditions, including reasonable attorney's and experts' fees and expenses and all court costs.

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