

Terms and Conditions

April 2006

1. Scope

- 1.1. The following Terms and Conditions are part of all quotations and contracts entered by PicoQuant GmbH. They apply exclusively for all sales, deliveries, contracts and services including consultancy, repair and maintenance, even if there is no explicit reference in individual cases.
- 1.2. Other, different or contradicting agreements and contracts only apply if they have been explicitly confirmed in writing.
- 1.3. Should individual terms and conditions be invalid or ineffective due to superior law, other terms and conditions stated here shall remain valid and effective.

2. Data storage

We notify customers and business partners that their business relevant data will be stored in our computer data base and used for business purposes in agreement with German data protection laws (§ 26 BDSG).

3. Quotations

- 3.1. Quotations are binding only if they have been explicitly given as legally binding quotations in writing. Contract status is entered only after written confirmation of order by PicoQuant.
- 3.2. Documents and data such as pictures, drawings, weights and measures given with a quotation are guidelines and do not implicitly guarantee features. We reserve the right to change technical design and appearance.
- 3.3. We reserve ownership and copyrights of software, calculations and other intellectual property.

4. Orders

All orders accepted by our representatives or employees become binding only after written confirmation. Counter-confirmations of different form or content are ineffective unless they have been explicitly acknowledged by PicoQuant.

5. Prices

- 5.1. Our prices are ex-work Berlin exclusive of packaging, freight, insurance and duty plus current VAT at time of delivery.
- 5.2. We reserve the right to charge the prices and surcharges valid at the day of delivery, in particular if prices for material or labour change. Fixed-price agreements must be agreed explicitly in writing.

6. Conditions of Payment

- 6.1. Payments are to be made free to our designated account. Payments are due within 30 days after the date of invoice without deductions.
- 6.3. Should the ordering party cause delay of delivery, payment is due as soon as we declare our readiness for delivery.
- 6.4. For overdue payments we charge an interest rate of 12% p.a. without an explicit reminder.
- 6.5. Incoming payments will always be set off against the oldest outstanding balance.
- 6.6. The ordering party is not entitled to refuse, withhold or set off payments unless the claims are undisputed or ordered by legal rule.
- 6.7. Cheques are accepted as means of transfer only. Payments are valid only after cashing. All cost involved is charged to the ordering party.
- 6.8. Bills of exchange are not accepted for payment.
- 6.9. If payments are overdue we are entitled to withhold delivery or other services without effect on other rights.

7. Delivery and delivery time

- 7.1. Deliveries are made ex-work if not otherwise agreed in writing.
- 7.3. Agreed delivery times are estimated times. The time of transport is in no case part of the delivery time.
- 7.4. Delivery time starts to run only after all documents, materials and information as well as the necessary permissions required to fulfil the contract have reached us on time, complete and of agreed quality and content.
- 7.5. Events we have no control over, such as strike, outlocking, disruption of business, disruption or delay of supply, or other unpredictable circumstances will prolong the delivery time accordingly.
- 7.6. Partial deliveries are permitted.
- 7.7. If a delivery time is not agreed, the time allowed for serving an order is at least 8 weeks. However, we are entitled to deliver earlier.

8. Delay of Delivery

Delay of delivery entitles the ordering party to withdraw from the contract or to claim compensation only if we have caused the delay by serious neglect.

9. Risk of Ownership

The risk of ownership in case of loss or damage is transferred to the ordering party, even if free house delivery is agreed.

- 9.1. If the goods are fetched by the recipient, the risk of ownership is transferred at the time he is notified that they are ready for delivery.
- 9.2. If the goods are shipped, the risk of ownership is transferred when the goods leave our factory. On request we ship the goods insured against transport damage. The cost of insurance is to be covered by the ordering party.
- 9.3. If the goods are to be installed or tested on site, the risk is transferred at the day of handover or upon successful test, if the test is done immediately after ready-to-run installation.
- 9.4. If the ordering party causes delay, the risk is transferred on the day the goods are ready to be shipped. Cost generated this way is to be covered by the ordering party.

10. Receipt of Goods and Notification about Faults

- 10.1. Each delivery is to be checked for completeness and damages upon receipt or handover.
- 10.2. Faults are to be pointed out in writing immediately.

11. Warranty

- 11.1. We offer warranty for faults of our goods within the legal period of 12 months except light sources, optics and detectors. For these components, warranty is limited to 6 months since they are subject to usage dependent degradation. PicoQuant may choose between repair or replacement. The ordering party is not entitled to fix faults and to demand payment for the cost involved. Should our attempts to fix faults fail, the ordering party may demand their legal warranty rights.

- 11.3. We disclaim all other warranties for losses or damages resulting from faults of our goods. This applies to all direct, indirect or consequential damages or any material or immaterial losses of data, time or profit, except where guaranteed properties are concerned that were specially designed to prevent such damages.

- 11.4. Warranty is void with further processing or modification of the goods.

12. Reservation of Property Rights

- 12.1. The supplied goods remains our property until invoices are fully paid or cheques have been cashed. This reservation of property rights also applies if the goods are used, modified or processed further. It then applies proportionally to the goods resulting from modification or processing, without any obligations on our part.

- 12.2. The ordering party may sell the goods only in normal business. Pawning or mortgaging of the goods is prohibited in any case. In case of selling the goods, the ordering party must reserve their property rights until the goods are fully paid.

13. On-Site Installation and Maintenance of Equipment

- 13.1. Our contract partners must take the same measures at the installation site to protect our property as they would do to protect their own property.

- 13.2. Before any on-site installation work our contract partner must provide all information about hidden electrical, gas and water supply lines and similar installations as well as information on building statics without explicit demand.

- 13.3. Our contract partner must agree to daily or weekly confirm in writing the work performed by our installation staff. He also confirms on special forms we provide, the completion of the installation.

- 13.4. Parts or components we remove and replace, automatically become our property without compensation unless otherwise agreed. This excludes parts and components that have to be disposed of appropriately for environment protection.

- 13.5. If we do an installation for separate payment, apart from paragraphs 13.1 to 13.4 the following paragraphs 13.6. to 13.8 also apply.

- 13.6. Our contract partner pays the rates for labour, extras for overtime, nightshifts, weekend shifts, work under difficult circumstances as well as planning and supervision. The same applies for materials including waste and set-up and connection of equipment.

- 13.7. Preparation, travel and return times are payable labour time. For travel to and from the site, especially labour and transport cost, will be paid according to the actual cost generated.

- 13.8. Furthermore the following costs have to be paid separately: costs for transport of tools and personal baggage, freight and packaging, delivery of material, equipment and technical documentation as well as our standard bonuses for extra labour and official holidays.

14. Export Control

- 14.1. Acknowledging the relevant export control laws, the ordering party agrees to obtain the required export licenses or other required documents for our products or technical information before export.

- 14.2. The ordering party agrees not to sell, export, reexport, deliver or pass on such products or technical information directly or indirectly to persons, companies or countries if this would violate German laws. The ordering party furthermore agrees to inform the receivers of such products or technical information about the necessity to comply to German laws and regulations. The ordering party will obtain the required licences as well as import and export documents required for purchase and re-sale of the products. Refusal of export permission does not entitle the ordering party to return the goods or to claim compensation.

15. Law Court and Place of Settlement

- 15.1. These terms and conditions, as well as cheque suits shall be governed and interpreted by the Landgericht Berlin, according to the laws of the Federal Republic of Germany.

- 15.2. We are, however, entitled to seek legal protection from any other court of justice that according to the laws of Germany or the country of the customer has jurisdiction over the case in question.

- 15.3. Place of settlement is Berlin.

16. Miscellaneous

The laws of Germany apply, except where international agreements on the purchase of goods apply. Any reference to other legal systems is ineffective.

The translation of these terms and conditions is for reference only. The legally binding document is the German original.