



AGILENT TERMS OF SALE

These Terms of Sale ("Terms") govern the sale of Products and Service and the license of Software by Agilent Technologies Sales & Services GmbH & Co.KG ("Agilent"). In case of different or supplementary agreements - in particular in case of conflicting Terms and Conditions - the express written consent of Agilent is required. This also applies if Agilent in awareness of any conflicting or deviating terms and conditions on the part of Customer fulfills the agreement unconditionally. "Product" means any standard hardware or consumables sold or standard Software licensed under these Terms. "Software" means one or more computer programs and related documentation. "Service" means any standard support service to support Products, Software updates and maintenance, or training. "Specifications" means technical information about Products published by Agilent and in effect on the date Agilent ships the order.

1. SALE AND DELIVERY

- a) All orders are subject to acceptance by Agilent. Orders are governed by the applicable trade term specified on the quotation or agreed to by Agilent as defined in Incoterms 2010.
- b) Prices exclude any applicable sales, value added or similar tax payable by Customer.
- c) Unless otherwise indicated on the quotation, prices include shipping and handling charges. Prices are market prices according to VO PR 30/53.
- d) Agilent reserves title to the Products delivered until full payment of the purchase price has been made and until the overall balance in Agilent's favor - future claims being included - has been cleared (Products subject to retention of title). Any modification or processing of the Products subject to retention of title will be made on behalf of Agilent. If the Products are incorporated in non-Agilent equipment by Customer, Agilent will become a co-owner of the newly created products, the scope of co-ownership being determined by the ratio of the value of the Products subject to retention of title to that of the third-party products that were also used. The products thus created will also be deemed to be Products subject to retention of title by Agilent. Insofar as Customer fulfills its payment obligations to Agilent, Customer will have the right to resell such Products, however, only subject to retention of title. Other disposals, in particular pledging of the Products or transfer of ownership thereto by way of security will not be permitted. If third parties raise claims to the Products subject to retention of title, Customer will identify these Products as Agilent's property and notify Agilent without delay. Customer now assigns to Agilent by way of security all claims and ancillary rights that may arise from reselling or re-letting the Products subject to retention of title or from the Customer's business relationship with its customers in connection with the reselling or re-letting of the Products subject to retention of title, up to the amount of the value of these Products. Customer will be authorized and under the obligation to collect the assigned claims. If Customer makes default in payment, Agilent will be entitled at any time to revoke this authorization and to notify Customer's purchasers of the assignment and to take possession of the Products subject to retention of title and if required demand that Customer assign any claims against third parties for the return of the Products. Customer will be under the obligation to give Agilent all information required for the recovery of the claims and to hand over the relevant documents. Agilent's taking back or attaching the Products subject to retention of title will not be deemed a rescission of the agreement. At Customer's request, Agilent will release the securities insofar as their value exceeds all claims to be secured by more than 10%.
- e) Customer may cancel orders prior to shipment at no charge. Product returns are subject to Agilent approval and applicable charges.
- f) For Products without installation included in the purchase price, acceptance occurs upon delivery. For Products with installation included in the purchase price, acceptance occurs when the Product passes Agilent's installation and test procedures. If Customer schedules or delays installation by Agilent more than thirty (30) days after delivery, acceptance of the Product will occur on the thirty-first (31st) day after delivery.

- g) Payment terms are stated in the quotation or acknowledgment documentation, and are subject to change if Customer's financial condition or payment record merits such change. Agilent may discontinue performance if Customer fails to pay any sum due, or fails to perform under this or any other Agilent agreement if, after ten (10) days written notice, the failure has not been cured.

2. LICENSES

- a) Agilent grants Customer a worldwide, non-exclusive, license to use Software for internal purposes in accordance with documentation provided with the Software. Agilent license terms or third party license terms included with such documentation will take precedence over these license terms. If the documentation does not include license terms, Agilent grants Customer a license to use one copy of the Software on one machine or instrument, or a license as otherwise stated on the quotation.
- b) Customer is only allowed to test, examine, decompile, or otherwise modify the Software within the framework of the applicable German Copyright Act (UrhG) (e.g. § 69 section e) UrhG). As far as Agilent provides information for the Customer within the framework of § 69 section e) German Copyright Act, Agilent can demand for an adequate remuneration. In other respects, such acts are not allowed without written authorization from Agilent. Customer will not copy Software onto any public or distributed network.

3. RIGHTS DUE TO DEFECTS (WARRANTY)

- a) Product warranty terms are provided with the Product, on quotations, upon request or at http://www.agilent.de/info/warranty_termsenglish. Each Product receives a global warranty which includes the standard warranty for the country of purchase.
- b) Unless otherwise agreed, the warranty period shall be 12 months within the Federal Republic of Germany. This applies also for Delivery of spare parts and repair services that will be delivered after the initial warranty period. Repair services or replacement of products at no charge will only be deemed to be an acknowledgement of a defect if explicitly stated in writing by Agilent.
- c) Agilent warrants the Agilent hardware Product against defects in materials and workmanship and that the Product will conform to Specifications. Agilent warrants that Agilent owned standard Software substantially conforms to Specifications.
- d) If Agilent receives notice of defects or non-conformance during the warranty period, Agilent will, at its option, repair, or replace the affected Product ("re-fulfillment" / "Nacherfüllung") or grant the Customer the right (i) to rescind the agreement without costs ("rescission" / "Rücktritt") or (ii) to demand reduction of the purchase price or the remuneration ("reduction" / "Minderung") or (iii) to demand compensation for damages or vain expenses. Agilent shall not be obligated to pay increased re-fulfillment expenses, if such an increase is caused because customer has brought the Product to another location than the location of original Delivery, except that such a move is in accordance with the intended use of the Product.
- e) THE WARRANTIES IN THESE TERMS ARE EXCLUSIVE, AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS



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EXPRESSED OR IMPLIED. AGILENT SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. INTELLECTUAL PROPERTY CLAIMS

- a) Agilent will defend or settle any claim against Customer that a Product infringes an intellectual property right, provided Customer promptly notifies Agilent in writing and provides control of the defense or settlement, and assistance, to Agilent.
- b) In defending or settling an infringement claim under Section 4(a), Agilent will pay infringement claim defense costs, settlement amounts and court-awarded damages. If such a claim appears likely, Agilent may, at its option, modify or replace the Product or procure any necessary license. If Agilent determines that none of these alternatives is reasonably available, Agilent will refund Customer's purchase price upon return of the Product.
- c) Agilent has no obligation for any claim of infringement arising from: Agilent's compliance with, or use of, Customer's designs, specifications, instructions or technical information; Product modifications by Customer or a third party; Product use prohibited by or outside the scope of Specifications or related application notes; or use of the Product with products not supplied by Agilent.

5. LIMITATION OF LIABILITY AND REMEDIES

- a) Agilent will be fully liable for damages caused by intent or gross negligence and also in case of compulsory liability according to the German law on product liability (Produkthaftungsgesetz).
- b) Furthermore, Agilent will be fully liable for personal injury caused by Agilent, its statutory representatives or its auxiliaries, as well as for written guarantees.
- c) Unless otherwise stated in Section 5 a) or 5 b), Agilent will only be liable in cases of culpable breach of essential contractual obligations. In these cases liability is limited to those damages that Agilent was reasonably able to foresee at the time of the conclusion of the agreement, based on the circumstances known to Agilent at that date.
- d) The remedies in these Terms are Customer's sole and exclusive remedies.

6. GENERAL

- a) Agilent will store and use Customer's personal data in accordance with Agilent's Privacy Statement, available at www.agilent.com/go/privacy - Privacy Statement. Agilent will not sell, rent or lease Customer's personal data to others.
- b) Terms for Service are available at http://www.agilent.de/info/service_termsenglish, upon request, or as otherwise indicated on the quotation.
- c) The parties agree to comply with applicable laws and regulations. Agilent may suspend performance if Customer is in violation of applicable laws or regulations.
- d) Customer who exports, re-exports, or transfers products, technology or technical data purchased hereunder assumes all responsibility for complying with applicable U.S. and all other laws and regulations ("Applicable Laws"), and for obtaining required export authorizations. Customer expressly agrees not to sell or otherwise transfer products, technology or technical data to companies or persons on the Denied Parties List and Specially Designated Nationals and Blocked Persons List, or to any other prohibited parties or restricted destinations listed in Applicable Laws, unless properly authorized by the appropriate government(s). Agilent may suspend performance if Customer is in violation of Applicable Laws. Further information on restricted destinations can be obtained from - <http://www.bis.doc.gov>.

- e) Use, distribution or disclosure of Products by the U.S Government is subject to DFARS 227.7202-3 (Rights in Commercial Computer Software), DFARS 252.227-7015 (Technical Data – Commercial Items), and FAR 52.227-19 (Commercial Computer Software- Restricted Rights).
- f) Disputes arising in connection with these Terms will be governed by the laws of the Federal Republic of Germany. The courts of Karlsruhe will have exclusive jurisdiction of all claims pertaining to or arising out of the concluded agreement. In addition, Agilent will be entitled to bring suit against Customer at the court that has jurisdiction according to the location of Customer's commercial establishment.
- g) To the extent that any provision or a portion of any provision of these Terms is determined to be illegal or unenforceable, the remainder of these Terms will remain in full force and effect.
- h) The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.
- i) Products are not specifically designed, manufactured or intended for sale as parts, components or assemblies for the planning, construction, maintenance or direct operation of a nuclear facility. Agilent shall not be liable for any damages resulting from such use.
- j) Upon Customer's request, Agilent will provide an end-of-use take-back service for environmentally sound disposal of the Products as legally required under EU Directive on Waste of Electrical and Electronic Equipment ("WEEE"). Agilent will pay all related disposal fees. All freight costs related to the end-of-use take back of the Products remain at the expense of the Customer. If Customer chooses to dispose of Products themselves, Customer is responsible for ensuring such is in accordance with local legal WEEE requirements.
- k) These Terms and any supplemental terms applicable to the order constitute the entire agreement between Agilent and Customer, and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. Any amendment to these Terms must be in writing in order to be valid. This will similarly apply to any waiver of this written form requirement. Customer's additional or different terms and conditions will not apply.
- l) Agilent may assign or transfer any of its rights or obligations under these Terms upon notice in connection with a merger, reorganization, transfer, sale of assets or product lines, demerger or spin-off transaction or change of control or ownership of Agilent, or its permitted successive assignees or transferees.