

# General Terms and Conditions

Valid from 30 September, 2005

## 1. Scope

- 1.1 These General Terms and Conditions apply to all deliveries of goods or works.
- 1.2 Any alterations to the terms and conditions, mentioned under 1.1 are only binding if accepted in writing.
- 1.3 Recipient shall not pass on GaPO<sub>4</sub>-material to third parties without prior written permission of PIEZOCRYST. An exception is GaPO<sub>4</sub>-material embodied in recipient's or PIEZOCRYST's products.
- 1.4 Recipient shall not use GaPO<sub>4</sub>-material to manufacture pressure, force or strain transducers without prior written permission of PIEZOCRYST.
- 1.5 Recipient shall not use GaPO<sub>4</sub>-material to grow Crystals without prior written permission of PIEZOCRYST.

## 2. Offer

- 2.1 Offers by PIEZOCRYST are made without obligation.
- 2.2 Specifications and quotes in catalogues, brochures etc., are only binding if expressly referred to in the order confirmation.
- 2.3 The offer or project documentation must neither be reproduced nor disclosed to third parties without PIEZOCRYST's consent. The documentation remains PIEZOCRYST's property and must be returned to him upon request.

## 3. Acceptance

- 3.1 The sales contract does not come into force until the buyer has received the written order confirmation from PIEZOCRYST, or the goods have been effectively delivered to the buyer.
- 3.2 Subsequent changes or amendments to the contract may be stipulated only in writing.

## 4. Prices

- 4.1 Prices are quoted ex works or warehouse of PIEZOCRYST, excluding packaging, dispatch and VAT. All expenses, duties and taxes related to the delivery are to the buyer's account.
- 4.2 If an order should differ from the offer, PIEZOCRYST reserves the right to change prices accordingly.

## 5. Delivery and Dispatch

- 5.1 Delivery periods do not run before the date of the order confirmation, and are deemed to be fulfilled when the goods are dispatched from the factory of PIEZOCRYST or warehouse.
- 5.2 If not explicitly agreed otherwise, any governmental or other permits required for delivery in the buyer's country will delay, unless produced in time, delivery dates. They have to be obtained in the buyer's country by the buyer.
- 5.3 Terms and obligations of delivery are suspended as long as the buyer's payments are in arrear.
- 5.4 PIEZOCRYST is entitled to carry out and invoice partial or preliminary shipments.
- 5.5 The agreed delivery periods are subject to force majeure, or unforeseen events or events beyond the control of PIEZOCRYST, such as war, Acts of God, governmental interventions and bans, energy and raw material shortages, strikes, transport damages or delays. These events entitle PIEZOCRYST to extend the time of delivery, also if they affect any of his sub-suppliers.
- 5.6 In case the delivery of the goods ready for dispatch is not possible or not desired by the buyer, the goods can be stored at the buyer's cost and risk. The delivery shall then be considered as performed.
- 5.7 Compensation for delays in delivery shall be payable only upon separate agreement, and shall be limited to an eventual penalty stipulated by the parties, even if delays are caused by PIEZOCRYST's negligence.

## 6. Performance of Contract and Transfer of Risk

- 6.1 Costs and all risks are transferred to the buyer at the time of dispatch of the goods from the factory or warehouse of PIEZOCRYST in default of the agreed delivery terms. This also applies in case of installations at the buyer's premises and transport by PIEZOCRYST.
- 6.2 If delivery is delayed by the buyer, transfer of costs and risk shall become effective when the goods are ready for dispatch.
- 6.3 All periods depending on the performance of PIEZOCRYST contract run from the dates specified in this section, irrespective of any quality tests or trial runs.

## 7. Payment

- 7.1 Payment shall be made without any deduction in the agreed currency to the bank of PIEZOCRYST. Cheques or bills of exchange shall be accepted on account only, and all connected expenses shall be charged to the buyer's account.
- 7.2 Partial invoices are due immediately upon receipt. This also applies to payments which have to be made for additional performances, beyond the initial terms of contract, regardless of the conditions of payment applicable to the main performance.
- 7.3 The buyer shall not be entitled to withhold or reduce any payments due because of warranty or compensation claims.
- 7.4 In case of delayed payment PIEZOCRYST is entitled either
  - a) to postpone his own obligations until receipt of the payments due,

- b) to fix a due date for all outstanding payments (cancellation of periods of payment),
  - c) to charge from maturity, interest at the current discount rate of the Austrian National Bank plus 5 per cent per year or
  - d) to rescind from the contract if the buyer fails to pay within a reasonable period of grace.
- 7.5 Until the buyer has fulfilled all financial obligations, the goods supplied shall remain PIEZOCRYST's property. The buyer shall be obliged to meet all legal requirements in order to safeguard PIEZOCRYST's property or security interest. In case of attachment or other kinds of seizure the buyer shall evidence PIEZOCRYST's title and notify the latter immediately.

## 8. Warranty

- 8.1 Unless otherwise agreed the warranty period shall be six months from the date of transfer of risk as stated in 6.1, regardless of the legal qualification of goods delivered or works performed.
- 8.2 Claims will be accepted only if PIEZOCRYST is immediately notified of the defect in writing. They are restricted to the repair or replacement of the defective goods. All other costs are to be borne by the buyer.
- 8.3 Defects which are due to abuse, misapplication, failure to follow the instructions for use, warnings, safety or other regulations provided by PIEZOCRYST, improper storage or other mistakes on the part of the buyer, are excluded from the warranty. In case of products which have been produced at the order of or according to the buyer's instructions or formulae, warranty will only cover the proper production of the goods. Normal wear will not be covered under warranty.
- 8.4 PIEZOCRYST's warranty obligations cease if any changes or repairs are caused by the buyer or a third person without PIEZOCRYST's prior written consent. The performance of a warranty obligation does not prolong the original warranty period.

## 9. Liability

- 9.1 PIEZOCRYST's liability according to the Product Liability Act is excluded, if specific provisions regarding the handling of the products, instructions for their use and/or warning and safety regulations as specified by PIEZOCRYST have not been observed.
- 9.2 Outside the scope of the Product Liability Act damages shall be compensated only if PIEZOCRYST is held responsible for intent or gross negligence. In this case, however, claims are limited to personal injury and material damage resulting directly from a defect in the products. All other claims, such as consequential loss of property or profit are explicitly excluded. Claims must be made in writing within a period of six months from the date of occurrence of the damage, but not later than two years from the date of delivery, otherwise they are forfeited.
- 9.3 Buyer is liable to subject his customers to the limitations of liability contained in this paragraph.

## 10. Rescission of Contract

- 10.1 The buyer can rescind the contract if delivery is delayed more than 60 days because of gross negligence of PIEZOCRYST and despite a reasonable period of grace granted in writing.
- 10.2 Apart from the case of delayed payment according to para 7.4 d) PIEZOCRYST can rescind the contract if
  - a) delivery or performance becomes impossible for reasons attributable to the buyer, or is delayed beyond a reasonable period of grace established in writing;
  - b) the buyer's financial situation has worsened notably after ordering the products, and he is not prepared to pay in advance, nor to provide sufficient security.Such rescission of contract shall also be permissible if only parts of the delivery or performance, which are still to be fulfilled, are affected.
- 10.3 In case that, due to events indicated in para 5.5, the agreed delivery times are delayed by more than six months, either party shall be entitled to rescind the contract with respect to those parts of the delivery or performance which have still to be fulfilled.
- 10.4 If bankruptcy proceedings are instituted against either party's assets, or these proceedings are not instituted because of insufficient assets, the other party may rescind the contract with immediate effect.
- 10.5 In case of rescission of contract for other reasons than the one stated in 10.1 all performances or parts thereof which have already been fulfilled by PIEZOCRYST, shall be settled and paid according to the contractual provisions, notwithstanding PIEZOCRYST's claims for damages. This also applies to deliveries and performances not yet accepted by the buyer as well as to any preparatory work undertaken by PIEZOCRYST. Alternatively, PIEZOCRYST is entitled to claim the restitution of products already delivered. Any other consequences resulting from a rescission of contract are excluded.

## 11. Patent Rights, Copyright

- 11.1 In the event a product is produced according to the buyer's construction, drawings or specifications, the buyer has to keep PIEZOCRYST harmless and indemnified for any infringement of patent rights of third parties.
- 11.2 All technical documents, in particular plans, drawings, technical descriptions, as well as catalogues, brochures, pictures or models etc. are PIEZOCRYST's exclusive property and are subject to legal and statutory restrictions on copy, reproduction, competitive use etc. Para 2.3 also applies to such documents.

## 12. Place of Jurisdiction, Applicable Law

- 12.1 In case of controversies arising from the contract the venue of legal is Graz. PIEZOCRYST shall, however, also be entitled to take action before a competent tribunal at the buyer's place of business.
- 12.2 The parties may also agree to have controversies settled by arbitration.
- 12.3 The contract shall be construed and interpreted according to Austrian law. It is mutually agreed that the UNCITRAL Agreement of the United Nations on the law of international sales of goods does not apply.