

**GENERAL TERMS AND CONDITIONS OF SALE OF YOKOGAWA DEUTSCHLAND GmbH,
HAVING ITS REGISTERED OFFICE AT BROICHHOFSTRASSE 7-11, 40880 RATINGEN, GERMANY (HEREINAFTER REFERRED TO AS "YOKOGAWA")**

These General Terms and Conditions of Sale (hereinafter referred to as "GTCS") are applicable to all offers, quotations, agreements and orders for the sale of Products, which for the purpose hereof includes the licensing of Software, and the providing of Services by Yokogawa to its Customers.

Any provisions in Customer's general conditions of purchase and/or sale or amendment(s) made by Customer to these GTCS are herewith explicitly rejected. Any such additions or amendments to and deviations from these GTCS shall be agreed in writing.

1. DEFINITIONS

CUSTOMER: the legal entity issuing a Purchase Order to Yokogawa.

DELIVERY DATE: the date when Yokogawa shall deliver the Products and/or has executed and performed the Services.

FUNCTIONAL DESIGN SPECIFICATION OR FDS: the functional specifications, drawn up by Yokogawa on the basis of data supplied by Customer.

HARDWARE: all machinery and installations and peripherals, by means of which data are processed or recorded on data carriers, together with components of the same.

ICC - Incoterms 2000: International Chamber of Commerce ("ICC") rules for the interpretation of trade and delivery terms.

PARTY OR PARTIES: Yokogawa and/or Customer individually or collectively as the case may be.

PRODUCTS: all Yokogawa Hardware, Software and documentation, test- and measurement equipment, analyzers, flow- pressure- or temperature meters, recorders, transmitters, sensors or any other good specified in the Quotation, not consisting of Services.

PURCHASE ORDER: a written order issued by Customer for the purchase of Products/Services as accepted in writing by Yokogawa (Purchase Order confirmation). As far as Software is concerned, "purchase" means acquisition of a license to use the involved Software and "Customer" means "licensee".

QUOTATION: the offer, proposal or quotation (however named) including scope, specifications, functional requirements, quantity, schedule, conditions, drawings and other related documents attached thereto or referred therein, issued by Yokogawa for the sale of Products/Services.

SERVICES: all activities performed by Yokogawa or under Yokogawa's direction for Customer, as specified in the Quotation, not consisting of the supply of Products.

SITE WORK: Services to be performed by Yokogawa or under Yokogawa's direction which are not performed at Yokogawa premises.

SOFTWARE: machine readable object code, including executable programs, firmware and/or Yokogawa-supplied data bases, user documentation in written or electronic object code form, recorded on forms, tapes, magnetic tapes, disks and all other media on which data have been or are recorded, including updated parts of such Software, new versions and/or adaptations.

THIRD PARTY PRODUCTS: Non-Yokogawa products which are delivered to Yokogawa's premises for the purpose of a) reselling b) integration with the Products or c) the testing of the Products.

VARIATION ORDER: a written document issued by Customer and accepted in writing by Yokogawa for the variation of an existing Purchase Order.

2. QUOTATION AND PURCHASE ORDER

Any Quotation issued by Yokogawa shall be without engagement and the price stated therein shall remain valid for a maximum period of sixty (60) days calculated from the date of the Quotation. Technical specifications, dimensions, designs, drawings, illustrations, catalogues, use statistics, weights etc. used by Yokogawa in a Quotation, are drawn up by Yokogawa to the best of its ability, but do not bind Yokogawa unless expressly agreed to in writing. Yokogawa shall be free (at its sole discretion) to accept or refuse Customer's Purchase Orders.

3. DELIVERY AND PRICE

All prices for the delivery of Products are calculated for deliveries ex Yokogawa registered office and all deliveries are made "Ex Works" in accordance with the ICC - Incoterms 2000. Prices for Services are calculated, applying then prevailing rates in the Yokogawa pricelist. All prices and rates are exclusive of VAT, transport, packaging, travel, lodging and installation, import duties and other taxes, levies or costs.

In the event of late delivery, Yokogawa shall notify the Customer in writing as soon as possible, identifying the reasons for the delay. The delivery time is calculated from acceptance of Customer's Purchase Order by Yokogawa, or, in case it has been agreed that Customer shall make a deposit, prepayment and/or shall pay a security, from the date Yokogawa has received the relevant Customer payment. The Delivery Date may be extended if Customer requests Variation Orders.

4. PAYMENT

Payment shall be made by Customer within thirty (30) days from invoice date. Payments must be made without any deduction or set-off into a bank or postal account, designated by Yokogawa. All bank charges shall be for Customer's account.

If Customer does not meet its payment obligations promptly or in full, Customer shall, without any further notice being required, be in default. In the prevailing case, Customer shall owe Yokogawa, with effect from the due date, interest equal to the lesser of 1% per month or the statutory default interest. The foregoing shall apply regardless of Yokogawa's right, in case of Customer's late payment, to suspend the further execution of the Purchase Order or, to the extent the Purchase Order has not yet been executed, to terminate same by means of a written notice, without prejudice to Yokogawa's right in the prevailing case to claim full compensation for any loss suffered.

5. PACKING

Packing of the Products shall be in accordance with Yokogawa's standard procedures.

6. FUNCTIONAL DESIGN SPECIFICATION (FDS)

Delivery of FDS shall be deemed to have taken place at the moment the FDS has been submitted to Customer. The content of the FDS shall be exclusively applicable to the Products and/or Services. The FDS shall be approved by Customer in writing within the agreed period. From the date the FDS has been agreed, Customer can no longer derive any rights from the data as supplied by Customer previously.

7. ACCEPTANCE TESTING

Factory Acceptance Test (FAT) means the testing of the Products and/or Services according to Yokogawa's standard test procedures, based on the FDS as approved by Customer. The FAT is carried out on Yokogawa's premises, eye-witnessed by Customer to verify the compliance of the delivery with the contractual requirements and the FDS. If Customer, despite prior invitation and/or confirmation, has not been present at FAT, FAT is deemed to have taken place in Customer's presence. Completion of FAT shall result in Customer's release for shipment, subject to all outstanding invoices having been paid by Customer.

Site Acceptance Test (SAT) is the site test to verify that no deterioration occurred to the Product(s) during shipment and installation of the delivery on Customer's site.

8. SITE WORK

In respect of Site Work to be performed by Yokogawa, Customer shall ensure the following:

- Site Work can be commenced and continued unhindered and undisturbed from the moment of arrival of Yokogawa's personnel.
- Site Work can be performed during and outside normal working hours.

- Working conditions as necessary for the proper performance of the Site Work are present.
- Mandatory government permits have been obtained.
- Strict adherence to all reasonable directions given by Yokogawa to ensure the proper performance of the Purchase Order.
- Availability of fully operational technical, spatial and communication facilities needed to enable any Products to be supplied to function. This includes, but is not limited to good access roads, transport facilities, adequate foundations, auxiliary supplies and equipment, power, water, light, properly air-conditioned rooms for the Products, the presence of at least one appropriately skilled employee, as well as all other necessary aids and equipment.
- Availability at Customer's site of suitable and secure space for storing Products, materials and tools of Yokogawa for performing the Site Work, as well as a telephone for communications outside Customer's site. Customer shall be liable for all damage to and loss of Products, materials, tools and instruments from any cause during storage on Customer's site.
- Suitable and safe facilities for Yokogawa's personnel in the immediate vicinity of the Site Work.
- Physical safety of Yokogawa's personnel; Customer's Health and Safety program (including evacuation and emergency plans) shall be applicable to Yokogawa personnel. Customer shall be wholly liable for damages and losses arising from the death of or physical injury to Yokogawa personnel, resulting from Customer's failure to meet this obligation.
- Applying for and obtaining of all necessary Site Work permits and licenses as required for Yokogawa's personnel, as well as prior notification to Yokogawa of all relevant rules and procedures in connection therewith.
- Messing facilities are available.
- The Customer's facilities and services described in this article are available to Yokogawa free of charge.

For the purpose of this clause third parties performing Site Work on behalf of Yokogawa will be deemed Yokogawa's personnel.

9. VARIATION ORDERS

In case of variations which affect or may affect a Purchase Order, Customer shall notify Yokogawa in writing. Upon Yokogawa's receipt of such notification, Yokogawa will inform Customer in writing: (i) whether or not such variations are acceptable, (ii) price- and/or schedule impact (if any) and (iii) any other commercial or technical impacts or conditions (if any). Only upon receipt of Customer's written confirmation of acceptance of Yokogawa's informed/proposed impacts and conditions and upon Customer's compliance with any consequent obligations (if applicable) such as advanced payments, amendments of payment vehicles or the submission of additional information, Yokogawa shall incorporate and proceed with the above variations after signature by both Parties of the relevant Variation Order. In case such variations result in loss of time and/or additional costs, Yokogawa shall be entitled to extend the delivery time and/or to a reimbursement of additional costs, even if the variations are cancelled by Customer afterwards.

10. RESERVATION OF TITLE AND TRANSFER OF RISK

Yokogawa retains the title to all Products delivered by Yokogawa, until the Customer fulfilled all claims regarding the business relationship, including future claims, claims from concurrent or future contracts, outstanding balance claims due to Yokogawa in the framework of the business relationship (reservation of balance) and full indemnification of contingent liabilities accepted by Yokogawa for the Customer.

The Customer shall keep the reserved Products ("Vorbehaltswaren") in safe custody for Yokogawa and shall inform Yokogawa without undue delay in writing about any (attempted) pledge or seizure of the reserved Products by third parties and about any damages to the reserved Products.

If, by combining or processing the reserved Products, Yokogawa's ownership expires, the Customer hereby transfers to Yokogawa his ownership rights to the new goods in proportion to the invoice value of the reserved Products and shall keep them in safe custody for Yokogawa free of charge.

Should the reservation of title of this section not be valid according to the laws of the country, in which the reserved Products are situated, a security shall be deemed to be agreed, which according to the laws of this country meets best the purpose of the reservation of title. The Customer shall perform any acts necessary for this purpose upon Yokogawa's request.

Risk to the Products shall transfer to Customer upon delivery.

11. INTELLECTUAL PROPERTY RIGHTS

Yokogawa remains the owner of all intellectual property rights in the Products and in the results of Services, including rights in inventions, models, designs, schedules, drawings, illustrations, catalogues, manuals and in all other documentation etc. comprised therein as supplied to Customer. Customer shall not copy, reproduce or circulate the above in whole or in part, without the prior written permission of Yokogawa. Nothing in these GTCS or any Purchase Order or Quotation is intended to or shall have the effect of vesting in or transferring to Customer rights in Yokogawa's or its affiliates' or its or their suppliers' Software, methods, know-how or other intellectual property, regardless of whether such intellectual property was created, used or first reduced to practice in tangible or intangible form in the course of performance of the Services, whether solely by Yokogawa or jointly with Customer.

12. INFRINGEMENT CLAIMS

Yokogawa will indemnify and hold Customer harmless from all claims by third parties with respect to an infringement of any intellectual property right, made against Customer and (allegedly) resulting from Customer's use of the Products and/or the results of the Services, provided that:

- Customer shall promptly notify Yokogawa in writing of any such claims,
- Customer shall provide all assistance to Yokogawa as may be reasonably requested in connection with the defence or settlement of all such claims,
- Yokogawa shall have the exclusive right to control the defence and settlement of all such claims.

If according to a final judgment, Customer shall be denied the further use of the Product and/or the results of Services or part thereof by reason of an (alleged) infringement, Yokogawa will, at its own expense and option either:

- modify or replace the Product and/or results of Services or the infringing part thereof so that it becomes non-infringing without adversely affecting the functionality thereof, or
- procure for Customer the right to continue to use the Product and/or results of Services, or
- if the foregoing alternatives are not available or not available at reasonable costs, Yokogawa shall - provided that such unavailability/availability at unreasonable costs is not attributable to Yokogawa and was not foreseeable at the date of the Purchase Order - take the Product back and credit Customer for an amount equal to the value of the Product/Services, taking into account the reduction in Purchase Order value of the relevant Product/Services depreciated over a four (4) year period from the date of acquisition.

Yokogawa shall not be liable if the infringement of any intellectual property right or any claim in respect thereof arises from, or is based on the use of the Product and/or the results of the Services in combination with products not supplied by Yokogawa or if the Product and/or the

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results of the Services are modified by Customer without Yokogawa's prior written authorization.

Customer shall fully indemnify Yokogawa against all losses of Yokogawa in performing Services, that breach an intellectual property right of third parties, if such breach arises from Customer's directions and/or the use by Yokogawa of Customer's designs, specifications, etc.

The above constitutes Customer's entire rights and Yokogawa's maximum liability with respect to an (alleged) infringement of any intellectual property right of a third party, resulting from Customer's use of the Product/Services.

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13. SOFTWARE LICENSE CONDITIONS

Yokogawa declares to the best of its knowledge to be entitled to license and adapt Software as necessary for the proper execution of the relevant Purchase Order. The ownership of, and all intellectual property rights in Software shall at all times remain with Yokogawa or its licensors. Software is made available to Customer on the following licensing conditions:

- Yokogawa grants to Customer a perpetual, non-exclusive, non-transferable license to use the Software;
- Software is made available to Customer on an "as-is" basis and on the condition that it is exclusively used on the Hardware on which it was initially installed;
- Customer shall not: (i) alienate or pledge Software or have Software used by third parties, (ii) decompile, disassemble or reverse engineer Software, or otherwise attempt to derive any Product source code from object code, except to the extent expressly permitted by applicable law, (iii) develop or have developed derivative software or other computer programmes which are based on Software.
- Customer shall be entitled to make and keep in stock one (1) back up copy of Software for the purpose of replacing the original copy in case of involuntary loss or damage of Software.

14. WARRANTY

The Products are warranted to be free from defects in material and workmanship for a period of twelve (12) months from the Delivery Date. Yokogawa assumes no warranty responsibility in the event of (i) improper handling, storage or use; (ii) (attempted) renovation, repair, calibration or replacement of parts by any third party other than authorized by means of prior written approval by Yokogawa unless the defect is not caused by such (attempted) renovation, repair, calibration or replacement of parts; (iii) normal wear and tear; or (iv) other cause of defect not exclusively attributable to Yokogawa.

If Third Party Products are supplied, the terms of warranty of the supplier of such products shall apply.

Subject to the remaining provisions herein, Products found defective shall be repaired or replaced at Yokogawa's sole discretion at its premises. Dismantling of the defective part, re-installation of the repaired/replaced part and re-commissioning shall be the responsibility of Customer. Any warranty claim shall be made in writing within the aforementioned warranty period and will be handled during Yokogawa's normal working hours. Customer shall be responsible for delivering to Yokogawa the defective part clean and free from any substance that may affect health.

Upon Customer's request and Yokogawa's acceptance, Yokogawa may dispatch at Customer's cost, its service engineer(s) during Yokogawa's normal working hours, to repair the defect and/or investigate its cause.

With respect to the providing of Services, Yokogawa warrants that the engaged personnel will execute the Services, taking into account the diligence, knowledge and craftsmanship which is standard in the industry.

THIS WARRANTY IS IN LIEU OF ALL OTHER LIABILITY OR WARRANTIES ON THE PART OF YOKOGAWA, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPLICITLY EXCLUDED AND DISCLAIMED.

15. LIMITATION OF LIABILITY

Unless otherwise specified in these GTCS, Yokogawa shall only be liable for damages due to the breach of contractual and non-contractual obligations, or during the initiation of the Purchase Order only for intent or gross negligence on the part of Yokogawa's legal representatives or vicarious agents, and in the event of culpable breaches of material contractual duties ("Wesentliche Vertragspflichten"). In the event of culpable breaches of material contractual duties - except in cases of intent or gross negligence on the part of Yokogawa's legal representatives or vicarious agents - Yokogawa shall be liable only for contractually foreseeable and typical damages. Unless otherwise agreed, the contractually foreseeable and typical damage shall be deemed to be the compensation to be paid under the Purchase Order, in relation to which the damage has occurred. Any further liability on the part of Yokogawa, including for indirect or consequential damages, is excluded. The limitation of liability herein shall not apply in the event of death, personal injury or damages to health or to claims under applicable product liability legislation.

Customer shall be solely responsible for the protection of its electronic data and information through installation of the most recent computer virus detection programmes and the timely creation of back-up copies. Yokogawa shall only be liable for damages that would have also occurred in the event of proper and regular measures to secure such electronic data and information in line with the importance of the electronic data and information.

16. TERMINATION

In the event Yokogawa has valid reasons to assume that Customer shall fail to perform any obligation under the Purchase Order or any agreement connected therewith without providing adequate security; or in case Customer (i) fails to perform any obligation under the Purchase Order which, upon written notice by Yokogawa remains unfulfilled for thirty (30) calendar days thereafter; (ii) becomes subject to change of control or ownership; (iii) terminates or suspends its business activities, becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, becomes subject to direct control of a trustee, receiver or of a similar authority or becomes subject to any bankruptcy or insolvency proceedings; Yokogawa shall be entitled, immediately and without warning or notice of default and without any liability or prejudice to any other remedy and/or right which Yokogawa may have, either to claim immediate fulfillment of Customer's obligations or cancel the Purchase Order, obtain possession of the Products and/or recover from Customer any amounts due.

17. FORCE MAJEURE

Parties shall not be responsible for any delay or failure in performing their obligations under a Purchase Order, if due to Force Majeure. For the purpose hereof, Force Majeure shall mean a delay in or failure of the performance of obligations which is directly and solely attributable to events which are compelling, unforeseeable, unavoidable, outside of the invoking Party's control and not due to any fault and negligence on its part.

Force Majeure may include, but is not limited to, the following events or circumstances:

- war, hostilities, invasion, acts of foreign enemies;
- rebellion, terrorism, revolution, insurrection, military or usurped power, civil war;
- riot, commotion, disorder, strike or lockout by persons other than the invoking Party's

personnel;

- munitions, explosive materials, ionizing radiation or contamination by radio activity, except as may be attributable to Yokogawa's or Customer's use of such munitions, explosives, radiation or radio active material;
- natural catastrophes such as flood, earthquake, hurricane, typhoon or volcanic activity.

In case of any of the above events, Parties will promptly notify the other Party of such delay or failure in writing and if a Force Majeure situation exceeds sixty (60) days, Parties shall have the right to terminate the Purchase Order without liability. In case of termination of the Purchase Order, goods belonging to Customer which are in the possession of Yokogawa shall be returned or held at Customer's expense and risk as from the termination date of the Purchase Order.

If Yokogawa has already partly met its obligations when a Force Majeure situation occurs or if Yokogawa can only partly meet its obligations, Yokogawa shall be entitled to invoice the part already performed and/or to be performed and the related payment shall be due by Customer.

18. CONFIDENTIALITY

Either Party shall keep strictly confidential all of the other Party's confidential and sensitive information of which it becomes aware of in the course of the execution of a Purchase Order and Parties shall take adequate measures to ensure that their personnel and other engaged personnel shall equally comply with this confidentiality commitment. This confidentiality commitment shall not apply to information which (i) is already known to the recipient or is publicly available at the time of disclosure, (ii) is legally disclosed to the recipient by a third party without an obligation of confidentiality, (iii) becomes publicly available after disclosure without any fault of the recipient, (iv) recipient can prove is independently developed by the recipient without reliance or reference to the information of the discloser, or (v) is required to be disclosed by law or public order.

19. EXPORT RESTRICTIONS

In the course of performing their respective duties hereunder, either Party agrees to comply with all applicable laws and regulations. In particular Parties shall comply with the export administration and control laws and regulations of the European Union and of any country relevant to the cooperation contemplated hereunder, including those of Japan.

Customer shall not knowingly use or export any of the Products if:

- a) Products shall be used for the erection, operation of a plant for research, production, use, storage or maintenance of armaments or ammunition as per EU Decree 1334/2000, including but not limited to chemical weapons, biological weapons or missiles thereof; or
- b) the country of final destination is any country to which export regulations of the UN, EU or Japan, or Yokogawa's export compliance policies apply;

Customer shall exert all reasonable efforts in collecting all information necessary to comply with the above. In all relevant cases Customer shall apply for an appropriate approval of Yokogawa and export license of the proper authorities and Yokogawa. Should no such approval and export license be granted, Customer shall refrain from the intended use or export.

20. ASSIGNMENT AND SUBCONTRACTING

Parties shall not, in any manner or degree assign or transfer, directly or indirectly, these GTCS or a Purchase Order or any part thereof or any share or interest therein, without the prior written consent of the other Party. Such consent shall not be unreasonably withheld.

Yokogawa may subcontract part or all of its obligations under a Purchase Order, provided Yokogawa shall remain fully liable and responsible for the acts of the subcontractor and compliance with the terms and conditions of these GTCS and the relevant Purchase Order.

21. WEEE

Any duty and/or costs for de-commissioning, transport, treatment, recovery, recycling and disposal of Products subject to Directive 2002/96/EC on Waste of Electrical and Electronic Equipment (WEEE) shall be for Customer's account. In countries where Yokogawa participates in waste collection schemes, Customer shall deliver WEEE declared products to a waste treatment facility (WTF) designated by Yokogawa for treatment and disposal in accordance with the WTF protocol. A WEEE declared Product shall not be re-used or re-marketed without prior written approval by Yokogawa. Customer shall indemnify and hold Yokogawa harmless against any fines, penalties, damages and/or claims resulting from or relating to failure by Customer to fulfill its obligations under this article.

22. GOVERNING LAW AND DISPUTE RESOLUTION

These GTCS shall be governed by and interpreted in accordance with the laws of the country where Yokogawa has its registered office. Applicability of the United Nations Convention on Contracts for the International Sale of Products (CISG) is explicitly excluded.

All disputes arising from or relating to the Purchase Order and/or these GTCS shall be submitted to the exclusive jurisdiction of the competent courts of Düsseldorf, Germany.