1.1 Unless otherwise expressly agreed upon, all our business transactions – also future ones – shall be exclu-
sively governed by these conditions of sale. We shall not recog-
nise any of the purchaser’s conditions to the con-
trary, the purchaser’s terms and conditions hereby being objected to. Conditions of sale shall apply even if, in
awareness of the purchaser’s conditions to the contrary, our contractual obligations are fulfilled without reserva-
ion. Any modification of the following conditions shall be subject to our prior written approval or to a written
agreement in order to be effective.

1.2 These conditions shall apply analogously to con-
tacts for services and mixed contracts.

1.3 We shall have the exclusive ownership and copy-
right of our offer documents, depictions, drawings, cal-
culations and other documents. On principle, espe-
cially if marked as confidential, they shall not be dis-
closed to third parties.

1.4 Any information made known to us in connection
with orders shall not be considered confidential.

1.5 The place of performance for our obligations and
for the purchaser’s obligation to pay shall be our indi-
cated business address.

1.6 From passage of title of our deliveries the buyer
shall be responsible for himself to observe all effective
legal import and export provisions.

2. Conclusion of Contract
2.1 Any agreements between us and the purchaser
concerning the contract and its execution must be made
in writing. Oral agreements and e-mails shall be not
effective.

2.2 Our offers, and the drawings, depictions, measure-
ments, weights and other performance figures contained
therein, shall be without obligation. We shall be bound
by the prices quoted in offers expressly marked as bind-
ing for four weeks from the date of the offer.

2.3 All statements in our offers do not constitute a
guarantee (Beschaffenheitsgarantie) in terms of § 443
German Civil Code (BGB).

2.4 A contract shall not become effective before the
order has been confirmed in writing by us and on condi-
tion that the licensing authority grants an export licence
if these is necessary in an individual case.

3. Terms of Payment
3.1 The value added tax, not included in our offers and
quoted separately in the invoice in its statutory
amount on the day of making out the invoice.

3.2 The purchase price shall be payable net within 30
days from the date of invoice. The relevant date for
meeting this deadline shall be the date of receipt of
payment. The granting of a discount shall be subject to a
separate written agreement.

3.3 Notwithstanding the purchaser’s terms of settle-
ment, any payments made by him may first be credited
against his longest outstanding debts. The purchaser will
be informed without delay against which particular debt
a payment has been credited.

3.4 In the event that we become aware of circum-
stances which raise doubts of the purchaser’s creditwor-
thiness, in particular overdue payments not settled, we
may immediately call due the total of the outstanding
debt. In such case, we are furthermore entitled to render
performance of outstanding obligations only against
advance payment or against provision of security.

3.5 A set-off by the purchaser against his counterclaims
shall not be admissible, unless such counterclaims are
uncontested by us or have become res judicata. The
purchaser shall be entitled to exercise a right of retention
only if the uncontested or non-appealable counterclaim
is based on the same contract.

4. Terms of Performance
4.1 Delivery shall be effected ex works “our indicated
address pursuant to the INCOTERMS 2000.

4.2 Any delivery dates and deadlines shall be without
obligation so far as the period shall not commence until all
technical details of the order have been clarified, the
documents and/or advance payments agreed upon have
been received, and the purchaser has fulfilled all his obli-
gations.

4.3 We shall be entitled at any time to effect partial
deliveries and render partial performance.

5. Warranty
5.1 Defects of quality and/or defects in title have to be
notified in writing.

5.2 The seller shall have the right to opt between sub-
sequent delivery or rectification of defects as subsequent
performance pursuant to Sec. 439 I of the German Civil
Code.

5.3 The costs of the subsequent performance shall be
borne by the seller, unless such costs are a disporpor-
tionate financial burden.

5.4 The assignment of warranty rights asserted by the
direct purchaser against us shall not be admissible.

5.5 Any warranty claims shall be limited to a period of 1
year from delivery. Damage claims pursuant to para-
graphs 6.1. and 6.2. shall be subject to the statutory
period of limitation.

5.6 In the event of revocation of the contract we will
reimburse the purchase price minus a sum depending on
the date on which the delivery dates back.

5.7 Any instructions for use or maintenance not ad-
tended to, changes made in the delivered goods, ex-
change of parts, or use of materials not in line with the
original specifications, shall result in the forfeiture of any
warranty rights. This shall apply likewise if performances
rendered by us are not used as stipulated in the contract,
or are used together with third-party performances, or if
the deficiency in the performance results from construc-
tion documents furnished by the purchaser, or from
other instructions given by him.

5.8 Regarding the sale of software, warranty is given by
us for its corresponding to our programme specifi-
cations, provided that such software is installed in the re-
spective systems according to our instructions and that it
is used by the purchaser as stipulated in the contract in the
combinations specified by us.

6. Liability
6.1 Regarding damages not caused to the delivered
good itself, we shall be liable for breach of contractual
and non-contractual duties only in case of intent and
gross negligence, culpable harm to body, life and health,
malice, or for a warranty given in an individual case.

6.2 In case of breach of essential contractual duties we
shall be liable also for slight negligence, which is, how-
ever, limited to the damage typical for the contract and
which is reasonably foreseeable.

6.3 Claims under the German Product Liability Act shall
remain unaffected.

6.4 Liability for loss of data shall be limited to the re-
production costs typically incurred if the purchaser
makes regular data backups in relation to risk. In the
event that the purchaser should not fulfill his duty set
forth under paragraph 9.4, we shall not be liable for any
damage resulting from it.

6.5 Any further damage claims of the purchaser shall be
excluded.

7. Reservation of Title
7.1 We shall hold title in any goods delivered until all
claims, including future and conditional claims, and the
balance claim in the current account, have been settled
(reserved goods). The purchaser may use the reserved
goods for production in his ordinary course of business
within the meaning of Sect. 950 of the Civil Code and
resell such goods, provided that he is not in default.

Neither pledge nor assignment of reserved goods or
transfer of ownership shall be permissible. The purchaser
is in any case entitled to sell the goods in the ordinary course
of business. The fact that the goods are reserved shall be
disclosed to the buyer. In the event of a breach of the
reserved goods, the purchaser shall be liable for the 
dispositions of the original data carriers and the
back-up copies at a place safe from access.

7.2 The purchaser shall insure the goods against the
usual risks.

7.3 Any use for production shall be carried out on our
behalf as manufacturer without engaging us. We shall
have a property share in the new goods in proportion of the
invoice value of the reserved goods to the value of the
new goods. The purchaser shall keep such items in storage for us free of charge.

7.4 Any claims arising with regard to the reserved
goods, including all balance claims in the current ac-
count, shall already be assigned by way of security by
the purchaser to us. The purchaser shall, however, be
entitled to collect such claims in his own name for our
account provided that we have not withdrawn such
collection authorisation due to the purchaser’s delay in
payment.

7.5 In the event of seizures by third parties of the re-
served goods, in particular executions, the purchaser
shall point out the fact that the goods are property and shall
inform us immediately. Such third party shall be liable for
any costs incurred by us in this regard. Should such third
party not be able to satisfy our claims, the purchaser
shall be held liable.

8. Industrial Property Rights and Copyrights
In the event that, due to the purchaser’s using the per-
formance, third parties should assert claims against the
purchaser for infringement of industrial property rights
or copyrights, the purchaser shall give us immediate
written notice. In such case we shall reserve any defence
and out-of-court measures to pursue our rights.

We shall give any support required for this pur-
pose.

9. Software Rights
9.1 Regarding the software, its replacements, supple-
ments, extensions, and accompanying documentation,
which is included in our delivery or delivered at a later
date, the purchaser shall be granted an indefinite, non-
transferable and non-exclusive right of use for the in-
terests of use of such software. Any copyrights shall
continue to be held by us.

9.2 The simultaneous input of the software delivered by
us into, or its use on, more than one piece of hardware
shall be inadmissible. The software shall not be modified,
copied, or reproduced in any other way, by the pur-
chaser. The production of a security copy marked as
such shall be admissible.

9.3 The interface information required for the interop-
erability (Sect. 69e of the German Copyright Act) may
be demanded from us against payment of a small contribu-
tion to the cost.

9.4 The purchaser shall commit himself to preventing
access by his employees and third parties to the deliv-
ered software and the accompanying documentation by
means of appropriate preventive measures, in particular
the safeguarding of the original data carriers and the
back-up copies at a place safe from access.

10. Constraints in Delivery
10.1 Constraints in delivery based on act of god or
based on events unforeseeable and not caused by us,
in particular these are official measures and restrictions
concerning import and export entitle us to execute the
delivery only if the constraints in delivery are eliminated.

10.2 Constraints in delivery entitle us to cancel the con-
tract without any right to the buyer to claim damages. In
such case we pay back immediately any payment made
by buyer. We inform the buyer about the beginning and
the end of such constraints in delivery in writing.

11. Applicable Law, Jurisdiction
11.1 All legal relationships between us and the pur-
chaser shall be exclusively governed by German law,
excluding the UN Convention on Contracts on the Inter-
national Sale of Goods.

11.2 For any disputes directly or indirectly arising from
the legal relationship between us and the purchaser, the
courts at our place of business shall have jurisdiction.

The purchaser may, however, also be sued before the
court having jurisdiction at his general place of busi-
ness.

12. Partial Invalidity
In the event that any provisions of these General Condi-
tions of Sale should be partly or entirely invalid, the
re-stated part of the fact that this validity.

Jena-Optronik GmbH
06/2008