

TERMS AND CONDITIONS OF SALE

1. APPLICATION

These Terms and Conditions of Sale shall apply to all quotations, deliveries of hardware and software products and services of National Instruments Denmark (NIDEN), unless specifically derogated from by written agreement between the parties. NIDEN's software products shall also be covered by NIDEN's standard software license agreement.

2. QUOTATION

Where not otherwise specifically indicated, quotations are subject to confirmation. In case of orders for quantities which are larger or smaller than those quoted, NIDEN reserves the right to adjust the price and the time of delivery.

Quotations are only binding for NIDEN if NIDEN upon receipt of a final specified order is capable of delivering the goods at the prices, exchange rates, times of delivery and other conditions on which NIDEN's quotations was based.

All prices are inclusive of the factory packaging and the labeling of the product.

NIDEN reserves the right to adjust the prices according to the exchange rate applicable on the date of delivery.

All prices are exclusive of freight charges and the government taxes applicable from time to time.

3. ORDERS

NIDEN reserves the right to adjust dimensions, prices, etc. of its stock products without prior notice and, in the absence of any agreement to the contrary, orders are registered at the prices applicable on the date of delivery. Prices are subject to confirmation, and NIDEN reserves the right to charge new or increased customs duties, exchange rates, freight charges and other expenses - and to increase the prices in cases where NIDEN's supplier has made reservations with respect to increasing labor costs, costs of materials, etc. after the order has been registered. Such changes will not entitle Customer to cancel the order.

Handling charges for small deliveries will be debited according to the rules applicable from time to time. Customer orders covering products bought specifically from one of NIDEN's suppliers (not currently available products) can normally not be cancelled without the supplier's written confirmation.

Cancellation of customer orders covering NIDEN's stock range will only be accepted subject to prior written agreement.

For quotations or order confirmations, the times of delivery are stated at our best estimate and are counted from the date when complete information concerning the delivery is available. In case of any unforeseen events delaying or rendering delivery impossible, also for NIDEN's suppliers, NIDEN shall be entitled to terminate the agreement wholly or partly at its option without being entitled to claim damages or other form of financial compensation.

4. PRICES

The prices stated are fixed by acceptance within the time stipulated for acceptance.

All prices in DKK or EUR are exclusive of VAT and any other taxes. Unit prices in quotations are current prices ex works. In case of partial orders, reservations are made as to adjusting the price.

Freight charges are added to the prices, and, if applicable, extra charges in connection with an agreed extended time of payment, as well as any taxes, charges, contributions, etc. applicable from time to time.

5. DELIVERY

All deliveries take place as shipping purchases unless otherwise agreed.

The times of delivery stated by NIDEN are approximate, and if NIDEN is of the opinion that a stated time of delivery cannot be observed or that a delay must be considered likely, Customer will to the extent possible be notified thereof and of the time when delivery is expected to take place. NIDEN shall not be responsible for any loss of profits, loss of earnings or other indirect loss affecting Customer or its

customers as a consequence of late delivery. If Customer can provide documentation of a loss incurred as a consequence of NIDEN's late delivery, NIDEN's liability shall be limited to a maximum of 5 % of the value of NIDEN's delivery which Customer cannot begin to use as intended, see also below in clause 7.

6. SHIPPING

All products are shipped in the manner which NIDEN may find most appropriate from time to time – and without NIDEN incurring liability for any differences of freight.

Shipment is for Customer's account and risk, and any damage or delays occurring during shipment will therefore not be compensated.

All products delivered on trial/loan must be returned on the terms and conditions stipulated on the delivery note. Any breach will be debited by an amount according to the rules applicable from time to time.

7. EXTRAORDINARY MATTERS ETC.

All deliveries will be made at the confirmed price and date, but subject to NIDEN's reservations with respect to any changes that might be caused by circumstances beyond NIDEN's control, occurring after the order confirmation and with the result that the terms and conditions on which the agreement is to be performed have changed significantly compared to the circumstances prevailing at the time of the order confirmation. Such circumstances include, but are not limited to the following: Labor disputes at NIDEN or NIDEN's sub-suppliers, changes in public taxes or duties, currency restrictions, exchange rate fluctuations, fire, war, civil commotion, natural disasters.

8. WARRANTY

NIDEN endeavors to deliver products that comply with the norms and specifications set forth in NIDEN's and NIDEN's suppliers' data sheets and other technical specifications. If said specifications are not met, NIDEN undertakes to replace the defective parts within the warranty period at no cost for Customer.

NIDEN shall not be liable for any defects or reduced profits due to a defective delivery. NIDEN shall thus not be liable in damages for any loss of profits, loss of earnings or any other indirect loss.

Complaints not related to the quality of the product must be received by NIDEN within 8 days from the date of delivery. Complaints concerning the quality of the product, errors in construction, materials or production must be made within a period of 12 months counted from the date of delivery.

9. NO OTHER WARRANTIES

EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE PRODUCTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, ARE MADE WITH RESPECT TO THE PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY OTHER WARRANTIES THAT MAY ARISE FROM USAGE OF TRADE OR COURSE OF DEALING. NIDEN DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF OR THE RESULTS OF THE USE OF THE PRODUCTS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE AND DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE. NIDEN EXPRESSLY DISCLAIMS ANY WARRANTIES NOT EXPRESSLY STATED HEREIN.

10. RETENTION OF TITLE

NIDEN retains title to the delivered products until the date of actual payment.

11. LIABILITY FOR DEFECTIVE PRODUCTS

In case of any errors or defects being detected in the products delivered by NIDEN within 12 months from delivery, such errors and defects being caused by construction, production or materials, NIDEN undertakes to repair or replace the defective product at no cost – provided that a complaint is made in time.

The defective parts must be forwarded to NIDEN carriage paid, and NIDEN will as soon as possible make any necessary repairs within the normal working hours.

However, NIDEN shall be entitled to deliver a new product instead of repairing the defective product. Replacement parts and repaired parts are delivered by NIDEN ex works. The costs of mounting and dismounting the parts are charged to Customer.

NIDEN disclaims any other liability for errors or defects and cannot be ordered to provide any further remedy, repair, damages or compensation of any kind. NIDEN shall thus not be liable for any delay, loss of profits or any other indirect loss as a consequence of defective delivery.

12. WARNING

(1) NIDEN'S PRODUCTS ARE NOT DESIGNED WITH COMPONENTS OR TESTED FOR A LEVEL OF RELIABILITY SUITABLE FOR USE IN OR IN CONNECTION WITH SURGICAL IMPLANTS, MEDICAL LIFE SUPPORT, NUCLEAR POWER, MASS AND AIR TRANSPORTATION CONTROL OR ANY OTHER CRITICAL APPLICATION WHOSE FAILURE TO PERFORM CAN REASONABLY BE EXPECTED TO CAUSE SIGNIFICANT INJURY OR DEATH TO A HUMAN. (2) IN ANY APPLICATION, INCLUDING THE ABOVE, RELIABILITY OF OPERATION OF THE SOFTWARE PRODUCTS CAN BE IMPAIRED BY ADVERSE FACTORS, INCLUDING BUT NOT LIMITED TO FLUCTUATIONS IN ELECTRICAL POWER SUPPLY, COMPUTER HARDWARE MALFUNCTIONS, COMPUTER OPERATING SYSTEM SOFTWARE FITNESS, FITNESS OF COMPILERS AND DEVELOPMENT SOFTWARE USED TO DEVELOP AN APPLICATION, INSTALLATION ERRORS, SOFTWARE AND HARDWARE COMPATIBILITY PROBLEMS, MALFUNCTIONS OR FAILURES OF ELECTRONIC MONITORING OR CONTROL DEVICES, TRANSIENT FAILURES OF ELECTRONIC SYSTEMS (HARDWARE AND/OR SOFTWARE), UNANTICIPATED USES OR MISUSES, OR ERRORS ON THE PART OF THE USER OR APPLICATIONS DESIGNER (ADVERSE FACTORS SUCH AS THESE ARE HEREAFTER COLLECTIVELY TERMED "SYSTEM FAILURES"). ANY APPLICATION WHERE A SYSTEM FAILURE WOULD CREATE A RISK OF HARM TO PROPERTY OR PERSONS (INCLUDING THE RISK OF BODILY INJURY AND DEATH) SHOULD NOT BE RELIANT SOLELY UPON ONE FORM OF ELECTRONIC SYSTEM DUE TO THE RISK OF SYSTEM FAILURE. TO AVOID DAMAGE, INJURY OR DEATH, THE USER OR APPLICATION DESIGNER MUST TAKE REASONABLY PRUDENT STEPS TO PROTECT AGAINST SYSTEM FAILURES, INCLUDING BUT NOT LIMITED TO BACK-UP OR SHUT-DOWN MECHANISMS. BECAUSE EACH END-USER SYSTEM IS CUSTOMIZED AND DIFFERS FROM NIDEN'S TESTING PLATFORMS AND BECAUSE A USER OR APPLICATION DESIGNER MAY USE NIDEN PRODUCTS IN COMBINATION WITH OTHER PRODUCTS IN A MANNER NOT EVALUATED OR CONTEMPLATED BY NIDEN, THE USER OR APPLICATION DESIGNER IS ULTIMATELY RESPONSIBLE FOR VERIFYING AND VALIDATING THE SUITABILITY OF NIDEN PRODUCTS WHENEVER NIDEN PRODUCTS ARE INCORPORATED IN A SYSTEM OR APPLICATION, INCLUDING, WITHOUT LIMITATION, THE APPROPRIATE DESIGN, PROCESS AND SAFETY LEVEL OF SUCH SYSTEM OR APPLICATION.

13. COMPLAINTS

Complaints of any kind must be filed without undue delay after delivery.

A defect which could not be detected by a usual inspection of the shipment must be notified to NIDEN in writing immediately after the defect has been detected.

14. LIMITED INDEMNITY AGAINST INFRINGEMENT

NIDEN shall, at its own expense, defend any litigation resulting from sales of NIDEN's Products to the extent that such litigation alleges that the products or any part thereof infringes any patent, copyright or trademark, provided that such claim does not arise from the use of the products in combination with equipment or devices not made by NIDEN or from modification of the products, and further provided that Customer notifies NIDEN immediately upon its obtaining notice of such impending claim and cooperates fully with NIDEN in preparing a defense. If Customer provides to NIDEN the authority, assistance and information NIDEN needs to defend or settle such claim, NIDEN shall pay any final award of damages in such suit and any expense Customer incurs at NIDEN's written request. NIDEN shall not be liable for any settlement made without NIDEN's prior written consent. If the products are held to be infringing and the use thereof is enjoined, NIDEN shall, at its option, either (i) procure for Customer the right to use the Products, (ii) replace the Products with others which do not constitute infringement, or (iii) remove the infringing Products and refund the payment(s) made therefor by Customer. The foregoing states Customer's sole remedy for, and NIDEN's entire liability and responsibility for, infringement of any patent, trademark, or copyright relating to the Products provided hereunder. THIS LIMITED INDEMNITY IS IN LIEU OF ANY OTHER STATUTORY OR IMPLIED WARRANTY AGAINST INFRINGEMENT.

15. PRODUCT LIABILITY

If a product or service delivered by NIDEN under these Terms and Conditions of Sale might cause direct physical injury or death to humans or damage to products which are usually intended for non-commercial use and are used accordingly, and such damage, injury or death is caused solely by a defect in the product, NIDEN undertakes liability therefor to the extent this is accepted by NIDEN as part of a settlement, or if NIDEN is ordered under mandatory legislation by a court which is competent under Danish law. NIDEN shall not be liable for any damage to items which are usually intended for commercial use or are used commercially and used accordingly.

To the extent product liability to a third party might be imposed on NIDEN, Customer shall indemnify NIDEN to the effect that NIDEN is placed as if limitations of liability under these Terms and Conditions of Sale were applicable vis-à-vis third parties.

16. RETURN OF PRODUCTS

Customized products or products bought specifically from a supplier (not currently available products) can normally not be returned without written confirmation from NIDEN's supplier and then only on that supplier's terms and conditions.

New, unused products from our standard storage program in original, intact packaging may be accepted for return, but only subject to prior agreement and only against payment of a fee of 15 % of the invoiced value of the product.

Products and empty packaging returned to NIDEN must be delivered at the address indicated by NIDEN for the shipper's account and risk. Any amounts charged from NIDEN upon receipt will be deducted when crediting the value of the shipment. Upon return, the return number, invoice number and date of delivery must be stated.

17. SERVICES

Limited warranty: NIDEN warrants that services will be performed in a good and workmanlike manner. Except as expressly stated in the preceding sentence, NIDEN makes no express or implied warranties with respect to the services, including but not limited to (a) any warranty relating to third-party products or (b) any warranty concerning the results to be obtained from the services or the results of any recommendation NIDEN may make, including without limitation any implied warranties concerning the performance, merchantability, suitability, non-infringement or fitness for a particular purpose of any of the deliverables or of any system that may result from the implementation of any recommendation NIDEN may provide. In order to receive warranty remedies, any errors or defects in the services must be reported to NIDEN in writing within 90 days of completion of the services.

Limitation of liability: NIDEN is not liable for any incidental, indirect, special, or consequential damages arising out of or in connection with the services provided by NIDEN, including without limitation loss of use of the products or any other software or data, including inability to achieve a particular result, even if NIDEN has been advised of the possibility of such damages or even if the damage is the direct result of an instruction or suggestion made by NIDEN. Except for claims that the services caused bodily injury (including death), NIDEN's total liability arising out of or in connection with any event or series of connected events occurring in connection with the services shall not exceed the amount of fees paid under the separate written agreement between Customer and NIDEN. These provisions allocate the risks under the separate written agreement between Customer and NIDEN. NIDEN's pricing reflects this allocation of risk and the limitation of liability specified herein.

High-Risk Activities: Customer understands and agrees that NIDEN has not tested or certified its services for use in high-risk applications, including medical life support, nuclear power, mass and air transportation control, or any other potentially life critical uses and makes no assurances that the services are suitable for any high-risk uses.

Indemnification: Customer accepts responsibility for, and agrees to indemnify and hold NIDEN harmless from, any and all liability, damages, claims, or proceedings arising out of (a) the failure of Customer to obtain the appropriate license, intellectual property rights, or any other permissions required to support any products or NIDEN's performance of the services, including but not limited to, the right to make any copies or reproductions of any Customer-provided software or (b) any inaccurate representations regarding the existence of an export license or the eligibility for export of software or other materials without a license.

18. DEVELOPMENT AGREEMENTS

Where NIDEN undertakes on behalf of Customer to develop, modify or manufacture products according to specifications of requirements, a special development agreement must be made, clearly specifying Customer's requirements for the product.

These Terms and Conditions of Sale shall apply unless otherwise provided by the development agreement and subject to any amendments which are intended by their very nature.

To the extent the rights to the developed product belong to Customer under the development agreement, the rights will not pass to Customer until NIDEN's remuneration has been paid in full.

NIDEN shall not be liable for any infringements of intellectual property rights held by third parties if such infringements can be ascribed to Customer's specification of requirements.

19. DEFAULT BY CUSTOMER

If Customer defaults on the payment of an outstanding account, such default will be considered a default in respect of all outstanding accounts, which will thus be considered due, notwithstanding any credit allowed.

20. ADDITIONAL LIMITATIONS OF LIABILITY

In addition to the limitations of liability stipulated herein, the following shall apply

- NIDEN shall not be liable for any damage or loss caused by ordinary negligence.
- NIDEN shall not be liable for any damage or loss as a consequence of errors, non-conformity or defects with respect to the products used by Customer for any purposes for which the products have not been tested, see clauses 12 and 17 ("High-Risk Activities"), and Customer shall indemnify NIDEN for any claims made by third parties against NIDEN for such loss or damage.
- NIDEN's liability, where not further limited elsewhere herein, is in any circumstances limited to the highest of EUR 50,000 or the purchase price of the specific product(s) or services on which the claim is based.
- NIDEN shall not be liable for any loss of profits, business interruption, loss of anticipated savings, loss of information or data or any other indirect or consequential loss.

The parties agree that the above allocation of liability is reflected in the prices of products and services. Where a limitation of liability herein is found to be invalid, such limitation of liability shall apply to the widest possible extent, and any invalidity in whole or in part shall not affect the other limitations of liability, which shall thus remain in full force and effect.

21. EXPORT LAWS

The products are subject to control under the U.S. Export Administration Regulations (15 CFR Part 730 et. Seq.) and other applicable U.S. and EU export control laws and regulations. Customer agrees that it will not export, re-export or transfer the Products via means to any prohibited destination, entity or individual without the required export license(s) or authorization(s) from the U.S. Government or a competent EU government.

22. DISPUTES

Any disputes concerning the conclusion or construction of the agreement shall be settled in accordance with Danish law, including general custom and trade custom.

Unless otherwise prescribed by mandatory Danish statutory rules, proceedings must be commenced at NIDEN's venue.

23. TERMS OF PAYMENT

The due date is the date stated on the invoice.

In case of payment later than the due date, interest will be calculated from the due date of the invoice amount inclusive of VAT at the percentage stated on the invoice.

Any complaints will not entitle Customer to withhold payment for deliveries made. Non-registered Customers are required to pay in cash. However, non-registered Customers are required to pay in advance when ordering special products.

24. MISCELLANEOUS

To the extent the above terms and conditions are not sufficient, reference is made to NLS 82 General terms and conditions for delivery of standard products. For delivery of machinery and other mechanic and electric equipment, reference is made to NL 85 and NLM 84.