

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

June 2<sup>ND</sup>, 2025

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## Clause 1. Identity

Official name: Bronkhorst Instruments GmbH  
Office address: Am Ziegelwerk 1  
85391 Leonhardsbuch, Germany  
Telephone: +49 8166 9921 0  
E-mail: [info.bhi@bronkhorst.com](mailto:info.bhi@bronkhorst.com)  
Company number: Munich – HRB 69196  
VAT number: DE 129 408 245

## Clause 2. Definitions

- 2.1. In these general terms and conditions of sale and delivery, capitalised terms have the meanings ascribed to them in Clause 2.4, unless the context unmistakably indicates otherwise.
- 2.2. In these general terms and conditions of sale and delivery, nouns, pronouns and verbs in the singular shall be deemed to include the plural and vice versa, in all cases in so far as the context so requires.
- 2.3. In these general terms and conditions of sale and delivery, words such as "including", "inclusive of" or "include" are used to indicate that the list to which they relate is not exhaustive.
- 2.4. Definitions:

**Agreement** means the Written agreement pursuant to which Bronkhorst undertakes to sell and deliver a Product and/or a Service to the Customer and the Customer undertakes to purchase such Product and/or Service.

**Bronkhorst** means the limited liability company Bronkhorst Instruments GmbH, a company incorporated under German law, registered with the District Court of Munich under number HRB 69196.

**Clause** means any clause in these General Terms and Conditions.

**Customer** means any legal entity or other entity that has entered, or intends to enter, into an Agreement with Bronkhorst.

**Delivery** means making a Product available to the Customer, irrespective of whether the Customer actually takes receipt of the

Product at the time when it is made available, and/or the actual performance of the agreed Service by Bronkhorst.

**EULA** (*End-User License Agreement*) means the agreement setting out the end-user licence terms as used by Bronkhorst for any Software.

**General Terms and Conditions** means Bronkhorst's general terms and conditions of sale and delivery of Products and/or Services, as set forth herein.

**Product** means any good offered, sold and/or delivered by Bronkhorst.

**Service** means any service offered and delivered by Bronkhorst to a Customer under an Agreement, specifically including performance of any maintenance and repairs and providing training programmes, workshops, courses and education.

**Software** means all software (such as (programming) codes and (source and software) files) offered by Bronkhorst to the Customer or delivered together with the Product as part of the Agreement, regardless of whether it has been customized, set up, configured or extended for the benefit of the Customer.

**Test Delivery** means a Delivery within the meaning of Clause 6 of these General Terms and Conditions.

**Written or In Writing** means in written form according to Section 126 of the German Civil Code, by email or by any other electronic means agreed between Bronkhorst and the Customer through which messages are stored and can be made readable within a reasonable period of time.

## Clause 3. General

3.1. These General Terms and Conditions apply to all Agreements, offers, quotations and orders pursuant to which Bronkhorst undertakes to deliver any Products, Services and/or Software to a Customer or submits a proposal to do so.

3.2. The General Terms and Conditions of Bronkhorst apply exclusively. Any deviations from these General Terms and Conditions will only be effective to the extent as they have been explicitly confirmed by Bronkhorst to the Customer in

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Writing. This confirmation requirement applies in all cases, for example even if the Customer refers to its own general terms and conditions in the order and Bronkhorst has not expressly objected to the application of the general terms of conditions of the Customer.

- 3.3.** These General Terms and Conditions are only applicable in case the Customer qualifies as an entrepreneur (as defined in Section 14 of the German Civil Code), a legal entity under public law or a special fund under public law.
- 3.4.** Bronkhorst has the right to unilaterally amend these General Terms and Conditions. The Customer is deemed to have accepted any amendments to these General Terms and Conditions as of the effective date specified by Bronkhorst, if the Customer does not notify Bronkhorst of any objections In Writing within seven (7) days of Bronkhorst's Written notification of such amendments.
- 3.5.** In so far as Bronkhorst and a Customer, in addition to these General Terms and Conditions, specifically agree In Writing on any additional terms that are expressly intended to conflict with these General Terms and Conditions, such additional terms shall prevail over the provisions in these General Terms and Conditions.
- 3.6.** In so far as these General Terms and Conditions have been translated into a language other than German, any legal terminology used shall be interpreted in accordance with the interpretation given to them in the German language.
- 3.7.** The Customer warrants that, in its relationship with Bronkhorst and when performing the Agreement, it will comply with all applicable laws and regulations, specifically including the OECD guidelines for Responsible Business Conduct concerning the environment, labour, human rights, corruption and competition.
- 3.8.** The Customer is required to comply with all applicable (international) trade restrictions, controls, sanctions lists and other sanctions legislation in case of reselling the Products.

## **Clause 4. The making and terms of the Agreement**

- 4.1.** Unless otherwise stated in the quotation, a quotation issued by Bronkhorst is valid for thirty (30) days. Bronkhorst reserves the right to refuse any and all orders.
- 4.2.** The Customer's order is considered a binding contract offer. Unless otherwise specified in the order, Bronkhorst is entitled to accept the order within fourteen (14) days of receipt. The Agreement between a Customer and Bronkhorst is established through a Written order confirmation from Bronkhorst regarding the order placed by the Customer, regardless of whether the quotation and/or order confirmation is signed.
- 4.3.** The Customer is required to provide all necessary cooperation for the correct and timely execution of the Agreement by Bronkhorst, including providing adequate (access) rights such as licenses and permissions and the Customer ensures the accuracy, completeness and reliability of the data and/or specifications provided by or on behalf of them.
- 4.4.** Any illustrations, images, drawings and models, including specified quantities, dimensions and weights, of the Products provided by Bronkhorst in its sales catalogue, other advertising material and/or on Bronkhorst's website are not warranties and are mere approximates and are intended only to provide a general impression of the Products.
- 4.5.** If Services to be provided by Bronkhorst to the Customer are described in the Agreement, this description is always exhaustive.
- 4.6.** In the event of any discrepancy between the intended order by the Customer and the written order confirmation from Bronkhorst, the Customer is bound by Bronkhorst's order confirmation, unless the Customer notifies Bronkhorst In Writing no later than five (5) business days after the date of the order confirmation that the order confirmation does not correspond to the order.

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- 4.7.** After an Agreement is established in accordance with Clause 4.2, the Customer is not authorised to (unilaterally) cancel such order without reason, regardless of whether execution of the Agreement has commenced or not. The Agreement is binding. The Customer can only cancel the Agreement if (i) Bronkhorst and the Customer agreed upfront In Writing on the cancellation conditions, including the cancellation costs, and (ii) in the opinion of Bronkhorst, full compliance with the cancellation conditions has been met. The aforementioned does not affect any statutory right of termination.
- 4.8.** Even after the Written order confirmation of Bronkhorst, Bronkhorst reserves the right to deliver the Product according to the latest state-of-the-art and/or to change the manufacturing, material selection and specifications of the Product, provided that these changes do not conflict with the order and do not adversely affect the form, fit and function of the Product.
- 4.9.** The Products of Bronkhorst comply with the latest state of the art. Bronkhorst may decide to adapt a Product to the latest state of the art and phase out Delivery of earlier versions of that Product.
- 4.10.** Bronkhorst aims to keep spare parts of any delivered Products in stock for five (5) years after Delivery, however certain Products may have less spare parts availability due to a wide variety of factors.
- 5.3.** Unless otherwise agreed, the Customer must collect the Product within five (5) working days of Delivery at the address where Delivery has been made. If the Customer fails to collect the Product in a timely manner, the Customer is in default and Bronkhorst is entitled to charge a reasonable fee for storage and management of the Product.
- 5.4.** Any deadlines and delivery dates for Products and/or Services given by Bronkhorst are estimates, unless a firm deadline or delivery date has been expressly promised or agreed upon in the order. Bronkhorst shall not be liable for delays in Delivery if a firm deadline or delivery date has not been expressly promised or agreed upon.
- 5.5.** Bronkhorst has the right to deliver the order in installments or to wait until the entire order is ready for Delivery.
- 5.6.** Before the Delivery, the Products will be inspected and tested by Bronkhorst according to the standard inspection and test procedure of Bronkhorst or that of the manufacturer. Any additional tests or inspections or provision of test certificates and/or detailed test results required by the Customer, are subject to prior Written approval from Bronkhorst and, unless otherwise agreed, take place at the expense of the Customer.
- 5.7.** The Customer is responsible for the installation and assembly of the Product into their systems, machinery and equipment; such installation and/or assembly works are not part of Bronkhorst's Delivery obligations, unless explicitly agreed otherwise In Writing.

## Clause 5. Delivery of a Product

- 5.1.** Unless Bronkhorst and the Customer explicitly agree otherwise regarding the terms of Delivery, the Delivery of the Product shall be made 'ex works' (EXW as defined in the Incoterms® 2020), at Bronkhorst's location in Leonhardsbuch, Germany, which shall also be the place of performance for Delivery and any subsequent performance.
- 5.2.** The Products will be packaged according to Bronkhorst's standard packaging procedure, unless otherwise agreed upon.
- 5.8.** If a Site Acceptance Test (SAT) has been agreed, the Customer must conduct the SAT as soon as possible, but in any case within thirty (30) days of Delivery. After the SAT is successfully completed, the Customer signs an acceptance statement which they send to Bronkhorst without delay. If the Customer puts the Product into (commercial) use before a successful SAT is conducted, then the Product is deemed to have been accepted by the Customer and to comply with the Agreement.
- 5.9.** If during the SAT it is found that the Product deviates from the technical specifications or any agreed test criteria, the

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Customer must promptly, but no later than five (5) days after the execution of that SAT, notify Bronkhorst in Writing, accompanied by adequate justification and documentation.

- 5.10.** If the Customer has not sent an acceptance statement to Bronkhorst within the term stated in Clause 5.8, or if the Customer has not reported a deviation to Bronkhorst within the term stated in Clause 5.9, then the Product is deemed to have been accepted by the Customer and to comply with the Agreement.
- 5.11.** To the extent that it becomes apparent during an SAT that progress is hindered due to a test criterion not being met, Bronkhorst and the Customer may mutually agree on an extension of the testing period and document this agreement In Writing.

## Clause 6. Test Delivery

- 6.1.** A Test Delivery is a Delivery of Products for testing, trial or inspection purposes, such as prototypes, samples or 0-series. These General Terms and Conditions are applicable to a Test Delivery.
- 6.2.** If Bronkhorst and the Customer agree on a Test Delivery, they will engage in discussions regarding the costs, technical specifications, test criteria and the procedures and protocols to be followed. The specific arrangements in this respect will be documented separately In Writing by Bronkhorst and the Customer before or at the time of the Test Delivery.

## Clause 7. Services

- 7.1.** Unless explicitly agreed otherwise, the Customer owes Bronkhorst a fixed fee for the Services provided by Bronkhorst as determined in the Agreement. In addition, Bronkhorst is entitled to charge the Customer for expenses incurred during the execution of the Agreement, such as transportation, travel and accommodation expenses.
- 7.2.** If during or after Delivery of a Service, it becomes apparent that work is required that has not been explicitly agreed

upon in the Agreement, this will be considered as additional work. Bronkhorst will promptly inform the Customer of the necessity for additional work and provide as estimate of associated costs. The additional work will only be carried out after the Customer has agreed to it In Writing. The cost for the additional work will be calculated based on Bronkhorst's applicable rates.

- 7.3.** The Customer is obliged to ensure that Bronkhorst can deliver the Service properly and to prevent Bronkhorst and/or its employees from suffering injury or damage, including damages due to delays. In addition, Bronkhorst is entitled to suspend the execution of its Service if, in Bronkhorst's sole discretion, circumstances exist that pose a risk to the safety or health of Bronkhorst's employees.
- 7.4.** The Customer is liable to Bronkhorst and/or its employees for any injury or damages incurred by Bronkhorst and/or its employees due to violation of the provisions of this Clause 7 during the performance of the Agreement, and in particular during the provision of the Services.
- 7.5.** Bronkhorst is entitled to reject a request for the provision of Services insofar such Services do not constitute Services that are to be performed under the warranty issued by Bronkhorst in Clause 10.

## Clause 8. Price, billing and payment

- 8.1.** All prices quoted and agreed are in EUR and exclude VAT, import duties and all other taxes and governmental levies. Bronkhorst is entitled to invoice after each Delivery or partial Delivery as referred to in Clause 5.5.
- 8.2.** Unless otherwise agreed in the Agreement, the Customer must pay an invoice within thirty (30) days of the invoice date, without any deduction, discount or set-off. Bronkhorst reserves the right to request a down payment or any other form of security in case the Parties agree to deviate from the standard payment term as set out in this Clause. Regardless of the payment conditions, each payment term is considered a firm deadline. The place of performance for the Customer's payment obligation is Munich, Germany.

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- 8.3.** The Customer does not have the right to invoke suspension of the payment obligation as set out in Clause 8.2 and the invoiced price is immediately due and payable if a circumstance occurs as mentioned in Clause 18.1.
- 8.4.** As from four (4) months after the conclusion of the Agreement, Bronkhorst reserves the right to reasonably increase the prices agreed in the Agreement if, after the conclusion of the Agreement but prior to Delivery, any (price) increase of at least five percent (5%) occurs in cost-determining factors (including but not limited to supply prices, delivery costs, import or export duties, wages, taxes, levies and/or the fluctuations in the applicable exchange rates of applicable foreign currencies).
- 8.5.** In case a payment is overdue, Bronkhorst is entitled to charge the Customer on the overdue amount (including VAT): (i) the statutory default interest, whereby Bronkhorst's entitlement to commercial default interest (Section 353 of the German Civil Code) remains unaffected and (ii) (ii) compensation for all collection costs reasonably incurred with a minimum of EUR 40, all without prejudice to Bronkhorst's other statutory and contractual rights, including suspension by Bronkhorst of its obligations under the Agreement until the Customer has fulfilled its due payment obligations.
- 8.6.** Bronkhorst is at all times entitled to suspend its obligations arising from the Agreement until the Customer has made the down payment referred to in Clause 8.2 or has provided the security referred to in Clause 8.2 (if applicable).
- 8.7.** Any recall action, guarantee or warranty claim or other complaint about a Delivery does not affect the obligations of the Customer under previous or future Deliveries and does not give the Customer the right to suspend payment of any amounts due to Bronkhorst.
- 8.8.** If it becomes apparent after conclusion of the Agreement that Bronkhorst's claim to payment of an invoice is jeopardized by the Customer's inability to perform (e.g. through the start of an insolvency procedure), Bronkhorst is entitled to suspend its performance and – if applicable, after

setting a firm deadline – to cancel the Agreement in accordance with Section 321 of the German Civil Code. In case it concerns an order for custom-made Products for the Customer, Bronkhorst is entitled to cancel the order immediately; the statutory provisions regarding the dispensability of setting a deadline remain unaffected.

## Clause 9. Retention of title

- 9.1.** Bronkhorst retains title to all Products delivered by it to the Customer under any Agreement until full payment of all current and future claims under any Agreement and the ongoing business relationship.
- 9.2.** The Customer is entitled to use or sell the Products delivered under retention of title in the normal course of its business, but it is not authorised to pledge or encumber or otherwise allow any third-party lien against these Products in any way. The Customer is obliged to store the Products delivered under retention of title with due care and as recognizable property of Bronkhorst, in order to prevent, among other things, mixing and/or transfer of ownership in the context of combination. If the Products of Bronkhorst are processed, mixed, or combined, the retention of title also applies to the newly created products in full, with Bronkhorst considered the manufacturer. In the event of processing with third-party products, their ownership remains, and Bronkhorst acquires co-ownership in proportion to the invoice values. The same provisions apply to the resulting product as to the Products delivered under retention of title.
- 9.3.** In the event of (subsequent) sale of Products delivered under retention of title, the Customer is obliged to reserve title to those Products.
- 9.4.** The Customer must insure the Products against damages and theft for the duration of the retention of title. The Customer is required to provide a copy of the relevant insurance policies upon Bronkhorst's request.
- 9.5.** If a third party intends to seize the Products delivered under retention of title or wishes to establish or enforce any rights thereon, the Customer must immediately notify

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Bronkhorst thereof In Writing and take sufficient measures to safeguard Bronkhorst's rights to the Products.

- 9.6.** If the Customer fails to fulfil a material obligation under the Agreement towards Bronkhorst, Bronkhorst shall be entitled to take back the Products delivered under retention of title at its own discretion without incurring any liability towards the Customer and/or to cancel the Agreement. The demand for return does not imply a declaration of cancellation; rather, Bronkhorst shall be entitled to demand only the return of the Products and to reserve the right to cancel the Agreement. In particular, Bronkhorst's right to claim compensation for damage, loss of profit and (default) interest as well as Bronkhorst's right to cancel the Agreement by written notice without further notice of default shall remain unaffected. If the Customer fails to pay the purchase price due, Bronkhorst may only assert these rights if Bronkhorst has previously unsuccessfully set the Customer a reasonable deadline for payment or if such a deadline is dispensable under the statutory provisions.

## Clause 10. Warranty

- 10.1.** The Customer's rights in the event of material defects and defects of title to the Products are governed by statutory provisions, unless otherwise specified below. The basis of Bronkhorst's liability for defects is above all the agreement reached on the quality and intended use of the Products (including accessories and instructions). If the quality has not been agreed upon, it shall be assessed in accordance with the statutory provisions whether a defect exists or not.
- 10.2.** Bronkhorst does not provide any warranties for any application possibilities of the Product - specifically including medical use - by the Customer, whether or not in connection with any other goods.
- 10.3.** All of Bronkhorst's obligations to the Customer with regard to Delivery of the Services constitute Bronkhorst using commercially reasonable efforts. Bronkhorst does not provide any guarantee that the Services delivered by it will produce any particular result.

- 10.4.** The Software, updates, maintenance, support and any other work provided by Bronkhorst regarding the Software are delivered "AS IS". The Customer acknowledges that Bronkhorst provides no warranties with regard to the Services. The Customer is responsible for making any back-ups of its data and for ensuring the availability of a system that can take over the functions of the Software in case the Software is not or no longer working.
- 10.5.** In case delivered Products are defective, Bronkhorst may initially choose whether subsequent performance shall be affected by remedying the defect (repair) or by the delivery of defect-free Products (replacement). If the type of subsequent performance chosen by Bronkhorst is unreasonable for the Customer in the individual case, the Customer may reject it. Bronkhorst's right to refuse subsequent performance under the statutory provisions remains unaffected.
- 10.6.** Bronkhorst is entitled to make the subsequent performance owed by Bronkhorst to the Customer as referred to in Clause 10.5 dependent on the Customer paying the purchase price due. However, the Customer is entitled to retain a portion of the purchase price that is reasonable in relation to the defect.
- 10.7.** Regarding the replacement or repair of all or any part of the Product as referred to in Clause 10.5, Bronkhorst will be considered to comply with its obligation to replace or repair a defective Product by delivering a similar (part of the) Product, provided that such (part of the) Product meets the same, or at least comparable, technical specifications as the (part of the) Product being replaced, and Bronkhorst is only obligated to replacement if the substitute Product (or part thereof) is available on what Bronkhorst considers reasonable conditions and through reasonable channels.
- 10.8.** The Customer's warranty claims for defects lapse:
- a. Upon expiry of a period of three (3) years after Delivery of the Product, unless Bronkhorst performed any servicing or repair work under the warranty with regard to the Product or any part thereof during the last year of

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that period, in which case an additional warranty period of one (1) year applies to such works from the date of completion of such works;

- b. If it concerns a Test Delivery, unless such Test Delivery is converted into a purchase of the delivered Product, in which case the warranty period of three (3) years as set out in Clause 10.8a commences at the time of Delivery of the Test Delivery;
- c. If the Customer defaults on any payment to Bronkhorst or otherwise breaches any of its obligation(s) under the Agreement;
- d. If the defect in the Product arises from the fact that the Product was not used for the intended purpose and under the circumstances for which it was delivered, from improper use, improper maintenance, improper installation and/or assembly of the Product by the Customer into the Customer's systems, machines or equipment (for example contamination of the Customer's systems) or from any act or omission on the part of the Customer in violation of the product information, product recommendations, user and/or processing instructions and/or safety instructions provided by Bronkhorst. Improper use also includes failure to store the Product correctly, resulting in, for example, contamination with dirt, moisture or otherwise;
- e. If the Customer themselves have made changes to the Product or through third parties;
- f. In case Bronkhorst procured the Product or part thereof from a third-party manufacturer and Bronkhorst does not have (or no longer has) any warranty claim against that third party manufacturer;
- g. If the Customer fails to notify Bronkhorst In Writing of any defect with a detailed description within ten (10) days of discovering such defect in accordance with Clause 11.2; and
- h. Bronkhorst is generally not liable for defects of which the Customer is aware at the time of conclusion of the Agreement or is unaware of due to gross negligence.

## Clause 11. Notification of defects

- 11.1. The Customer is obliged to carefully check the delivered Product upon receipt or immediately thereafter to determine whether the delivered Product conforms to the Agreement. The Customer must, in any case but not exclusively, check the Product for visible defects in terms of it being of good quality, undamaged and complete.
- 11.2. If the Customer discovers during the check referred to in Clause 11.1 that the delivered Product does not conform to the Agreement, the Customer must immediately cease using the Product and notify Bronkhorst of the non-conformity In Writing without delay, but no later than within ten (10) days following Delivery of the Product with as much detail as possible. In so far as there is any defect in the Product that could not reasonably have been discovered by the check as referred to in Clause 11.1, the Customer will be expected to report such defect to Bronkhorst In Writing within ten (10) days of discovering the defect.
- 11.3. After the notification referred to in Clause 11.2, the Customer is obliged to follow Bronkhorst's instructions and provide all necessary cooperation for the proper and timely handling of the warranty claim by Bronkhorst, including granting access to the locations where the Product is or was used, or returning at the Customer's costs the Product for examination purposes.
- 11.4. Any complaints about any Services delivered by Bronkhorst for the Customer must be reported by the Customer to Bronkhorst in Writing without delay, but no later than within ten (10) days of Delivery of the Service, giving as detailed a description of the complaint as possible.

## Clause 12. Liability

- 12.1. Any (risk based) liability of Bronkhorst on any legal ground is excluded for any indirect damage (including without limitation consequential damages, loss of sale, loss of profits, lost savings, loss of goodwill, loss due to business stagnation and losses resulting from errors in, or interruptions or loss of Software, data or information) caused by Bronk-

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horst, its employees, its Products and/or any persons it engages (for assistance), unless the damage was caused intentionally or through gross negligence by Bronkhorst, its employees and/or any persons under Bronkhorst's control. The limitation of this Clause 12 do not apply to liability for guaranteed quality characteristics of the Products, for injury to life, body or health or for liability under the Product Liability Act.

- 12.2.** Bronkhorst is not liable for any orally given advice, information, recommendations or communications of a similar nature. Written instructions for use delivered with a Product are based on Bronkhorst's knowledge and experience at the time of Delivery. Bronkhorst is not liable for the quality of the Products or any damage caused by a Product if the Customer fails, either partially or entirely, to comply with the relevant instructions during transportation, storage or using a Product.
- 12.3.** Any liability of Bronkhorst with respect to the Customer's desired application of the Product is excluded.
- 12.4.** In any event, except in case of intent or gross negligence on Bronkhorst's part, Bronkhorst's liability for any damages hereunder shall be limited to a maximum amount of EUR 10 million. insurance policy (up to a maximum of USD \$150,000). If the Bronkhorst liability insurance does not provide coverage for the claim in full, Bronkhorst's liability hereunder is limited to no more than the price paid to Bronkhorst for the applicable Product, Software or Service (exclusive of taxes) that caused the liability for Bronkhorst.
- 12.5.** The limitations of liability in this Clause 12 apply per event, with a series of related harmful events counting as a single event, or a single claim.
- 12.6.** The Customer must keep sufficient records to show which Products sourced from Bronkhorst it delivers to which third parties and, in so far as possible, require its customers (i) to specify to whom they resell the Products, and (ii) to impose this same obligation on their customers. Bronkhorst is entitled to request this information if there is a legal basis

for doing so. In such case, the Customer is obliged to provide such data to Bronkhorst.

## Clause 13. Indemnification

- 13.1.** The Customer shall indemnify, defend and hold Bronkhorst harmless, from and against any and all third party claims, damages, liabilities, costs and expenses (including attorney's fees), arising from and/or related to the performance of the Agreement, regardless whether the damages are caused by Bronkhorst and/or the Products or Services delivered by Bronkhorst.
- 13.2.** If the damage is caused by a circumstance that can partly be attributed to the Customer, the Customer is always obliged to reimburse at least a proportional part of this damages. The Customer will be responsible for having adequate insurance for the risks referred to in this Clause 13.

## Clause 14. Force majeure

- 14.1.** Bronkhorst is not obliged to fulfil any obligation during the period in which it is prevented by force majeure from fulfilling (the preparation of) its obligations under the Agreement and any agreed Delivery date will be extended by the period of force majeure. Force Majeure as referred to above includes, but is not limited to: (i) any cause beyond Bronkhorst's reasonable control; (ii) any failure to perform by Bronkhorst's suppliers resulting from any cause beyond such supplier's reasonable control (including labor issues), (iii) fire at one of Bronkhorst's locations, (iv) government measures, (v) outbreak of an epidemic or pandemic, (vi) strike, (vii) war, (viii) power failures and (ix) hacking, ransomware attacks and/or DDOS attacks.
- 14.2.** If the force majeure occurs when the Agreement has already been partly performed by Bronkhorst, the Customer will be required to keep that part of the Products that has already been delivered, to take receipt of and/or accept the Products already manufactured, and to pay Bronkhorst the purchase price for those Products. This obligation does not apply if the Customer demonstrates that those Products cannot (or can no longer) be used effectively due to non-delivery of the remaining part of the Products. If, due

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to force majeure or other events unforeseeable at the time of the conclusion of the Agreement for which it is not responsible, Delivery of the remaining part is delayed by more than twelve (12) months, the Customer then has the right to dissolve the Agreement in its entirety (including the part that has already been performed). In such a case the Customer is required (i) to return to Bronkhorst at the Customer's expense and risk the Products that have already been delivered or (ii) to compensate Bronkhorst for the value of the Products that have already been delivered.

- 14.3.** If Delivery for the entire Agreement is delayed by more than three (3) months due to force majeure, both Bronkhorst and the Customer are authorised to (partially) terminate the Agreement with regard to the part that has not been performed, without Bronkhorst and the Customer being obliged to compensate each other for any damages whatsoever. This is unless (i) it concerns a customised Product that has already been (partly) manufactured or assembled according to the Customer's specifications, or (ii) Products that, due to their nature, are irrevocably mixed with other products after delivery, in which case the Customer is not entitled to terminate the Agreement.

## Clause 15. Intellectual property rights

- 15.1.** Unless explicitly agreed otherwise In Writing, the intellectual and/or industrial property rights in the Products, the Software and all other things supplied by Bronkhorst to the Customer for the purpose of performing the Agreement - including without limitation drawings, documentation, reports, illustrations, calculations, designs, processes, models and/or source files - are owned by Bronkhorst or its licensors, regardless of whether it involves any Product(s) manufactured or assembled by Bronkhorst (to order) in accordance with the Customer's specifications.
- 15.2.** The Customer will not be permitted, without Bronkhorst's Written permission, to use, remove or alter any indication of intellectual or industrial property rights - including copyright notices, logos, brands and trade names - or other distinguishing marks of Bronkhorst in or on the Product or Software.

- 15.3.** If intellectual property rights arise during performance of the Agreement between Bronkhorst and the Customer, these rights belong to Bronkhorst, unless explicitly agreed otherwise In Writing. In so far as the intellectual property rights become vested in the Customer by operation of law, the Customer transfers those intellectual property rights to Bronkhorst in advance upon entering into the Agreement and the Customer will, if necessary, provide all required cooperation for such transfer.

- 15.4.** Customer and its possible end customers are granted the right on a non-exclusive basis to use the intellectual property rights of the Products and the Software as specified in the respective technical specifications and instructions of the Products or the EULA with regard to the Software. Except as provided in the previous sentence, Customer has no express or implied rights or licenses to the intellectual property rights of the Products and the Software and the right of use does not include the right to modify, configure or extend the intellectual property rights of the Products or the Software.

## Clause 16. Software

- 16.1.** To the extent that Bronkhorst and the Customer enter into any EULA containing provisions that conflict with these General Terms and Conditions, the provisions of the EULA take precedence.
- 16.2.** The Customer may only use the Software for the purpose intended within the framework of the Agreement and/or the EULA.
- 16.3.** The Customer is not allowed to:
- Reverse engineer, disassemble or decompile all or any part of the Software or otherwise attempt to derive or ascertain the source code or logic therein;
  - Remove or circumvent any technical security measures;

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

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AVAILABLE AT [WWW.BRONKHORST.COM/TERMSANDCONDITIONS](http://WWW.BRONKHORST.COM/TERMSANDCONDITIONS)

- Use any plug-ins or extensions not distributed by Bronkhorst that enable modification of the Software.

**16.4.** If updates for the Software become generally available from Bronkhorst, Bronkhorst will make them available to the Customer. Bronkhorst is entitled to impose conditions (including fees) for qualifying for an update. Bronkhorst is not obligated to update the Software and/or to correct any errors or bugs in the Software.

## Clause 17. Confidentiality

**17.1.** All non-publicly accessible information regarding the Customer and Bronkhorst, including but not limited to information regarding the business process and the Product(s), including all provided documentation, manuals and technical information regarding the Product(s), is considered confidential information. The Customer and Bronkhorst shall not share the confidential information of the other party with third parties. Additionally, neither the Customer nor Bronkhorst use the confidential information of the other party for the benefit of their own business operations, unless this is necessary to perform any obligation as agreed between the Customer and Bronkhorst or in relation to the specified use of the Products and/or Software.

## Clause 18. Termination

**18.1.** Bronkhorst may terminate and withdraw from the Agreement, without being obligated to any compensation to Customer for costs or damages, with immediate effect by means of a Written notification to the Customer if:

- a. the Customer applies for bankruptcy or is declared bankrupt or a similar insolvency procedure is applicable to the Customer;
- b. the Customer applies for or obtains (provisional) suspension of payments or a similar insolvency procedure is applicable to the Customer;
- c. the Customer offers a (compulsory) settlement to its creditors (whether judicial or extrajudicial);

- d. a material part of the Customer's assets is attached, and such attachment is not lifted within fourteen (14) days following such attachment;
  - e. the Customer is dissolved;
  - f. the Customer is placed under guardianship or administration;
  - g. the Customer is in default regarding the performance of or otherwise breaches any obligation under the Agreement or these General Terms and Conditions;
  - h. The customer does not fulfil its obligations according to Clause 3.7 of these General Terms and Conditions;
  - i. after conclusion of the Agreement, other circumstances come to the knowledge of Bronkhorst which reasonably give Bronkhorst valid grounds to fear that the Customer will not perform its obligations,
- all of this without prejudice to Bronkhorst's right to claim additional damages from the Customer.

## Clause 19. Communications

- 19.1.** Unless otherwise agreed, all communications concerning the Agreement and its performance must be made In Writing.
- 19.2.** Claims for performance and notices of default must be made by registered mail, explicitly stating what Bronkhorst is required to do and within what period of time.

## Clause 20. Transferability of rights and obligations

- 20.1.** The Customer cannot assign or transfer to any third party any claims it may have against Bronkhorst under or in relation to the Agreement and/or these General Terms and Conditions.
- 20.2.** Without prior Written approval from Bronkhorst, the Customer is not allowed to assign or transfer to any third party any Agreement or these General Terms and Conditions, any of its obligations under the Agreement and/or these General Terms and Conditions and/or its legal position with regard to the Agreement or these General Terms and Conditions. Bronkhorst reserves the right to assign or

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transfer, in whole or in part, any Agreement or these General Terms and Conditions to any third party or parties, including without limitation, to its successor, affiliated or related companies.

## **Clause 21. (Partial) nullity or voidability**

- 21.1.** If a provision in these General Terms and Conditions is null or voidable, this will not result in the entire General Terms and Conditions being null or voidable, nor does it render any other provision thereof partially null or voidable.
- 21.2.** If a provision in these General Terms and Conditions is null or voidable and subsequently voided, it will be replaced by Bronkhorst with a valid provision that most closely reflects the intent of the null or voided provision.

## **Clause 22. Waiver of right, Applicable Law, and Choice of Forum**

- 22.1.** Unless otherwise specified in these General Terms and Conditions, any claim of the Customer against Bronkhorst expires one (1) year after the day on which the claim arises, unless such claim is brought before the competent courts within this period.
- 22.2.** All legal relationships between Bronkhorst and the Customer are exclusively governed by German law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.
- 22.3.** Any disputes arising in relation to the relationship(s) between Bronkhorst and the Customer that are governed by these General Terms and Conditions will be submitted to the exclusive jurisdiction of the German courts. Munich, Federal Republic of Germany shall be the exclusive place of jurisdiction for actions arising from the contractual relationship. Mandatory statutory provisions on exclusive places of jurisdiction remain unaffected by this provision. The parties may reach other agreements. Parties may agree otherwise.