

1. General

1.1 The following conditions apply to all assemblies, maintenance works and repairs undertaken by INFICON GmbH. Putting a facility into operation and giving instruction as to its use are not part of the assembly process. Should the facility be put into operation by INFICON, the following relevant conditions apply.

1.2 General terms of business of the customer have no validity. In so far as a question of regulation is not covered by the following conditions, the legal regulation applies and not the customer's general terms of business.

2. Offers / Confirmation of order

2.1 Estimates and offers by INFICON are - in so far as there is no express reference to a deadline after which said estimates and offers become binding - subject to alteration; the contract first comes into being when said contract is confirmed by INFICON.

2.2 Orders placed without a previous offer in accordance with item 2.1. only become binding for INFICON once INFICON confirms the contract. The same applies in cases where the customer modifies an offer made by INFICON.

3. Personnel requirement, assembly / maintenance / repair deadlines, bearing of risk

3.1 Relevant personnel will be appointed based on the judgment of INFICON according to the type and duration of the work.

3.2 The time required for assembly/maintenance/repair will be estimated (subject to change) by INFICON on the basis of previous experience. In the case of iteration to commencement or duration due to a force majeure, schedules will be adapted as required.

3.3 In so far as deadlines are agreed, these are regarded as met when the assembly, maintenance or repair are ready for inspection by the customer should such a trial be contractually provided for. Should assembly/maintenance/repair be delayed due to force majeure, the deadline shall be appropriately extended, even if INFICON finds itself behind schedule at the time force majeure occurs. Force majeure also refers to strikes, lockouts, sabotage, non-culpable breakdowns, non-culpable malfunction of important work pieces, non-issue or late issue of official permits and all other unforeseen events. The customer is liable for unavoidable costs, in particular the waiting period and further journeys undertaken by INFICON personnel, arising as a result of the delay. Should waiting periods occur, INFICON has the right to recall its personnel.

3.4 Should the assembly, maintenance or repair work be damaged or concealed prior to receipt by the customer without any fault on the part of INFICON, INFICON has the right to demand the agreed price less the value of the work not performed. The same applies to cases where, through no fault on the part of INFICON, it is impossible for INFICON to perform the assembly/maintenance/repair work. The customer can demand repetition of the work if and in so far as this is reasonable for INFICON, particularly with regard to its other contractual obligations. Repetition of the work requires a new remuneration based on the current prices charged by INFICON.

4. Prices

4.1 Prices for assembly, maintenance and repair work are charged in accordance with the prices in force at the time the work is carried out. Charges include travel costs with incidental expenses, remuneration for assembly, maintenance and repair work, daily allowances, remuneration for set-up and disassembly times, if applicable extra charges for difficult working conditions, and in the case of repairs the price of exchanged or newly installed parts and the costs of their transport.

4.2 Travel costs include in particular the traveling expenses for personnel, cost of transport of luggage and tools, insurance for luggage and Flights, continuing ongoing personnel costs for the stall to be engaged, the costs of the materials to be used. INFICON can charge the customer for ongoing personnel costs according to assembly/maintenance/repair rates in so far as these are not higher than the costs incurred.

4.3 The remuneration for assembly/maintenance/repair work and daily allowances are based on the current INFICON rates. INFICON rates stipulate excess charges for work outside the normal working hours of the appointed INFICON personnel. In the case of particular difficulties regarding working conditions, e.g. where work is injurious to health, particularly dirty, dangerous or subject to particular heat, INFICON rates stipulate excess charges. The amount of the excess is in accordance with the basis set out in the respective INFICON rates.

4.4 The prices for replacement parts, newly installed parts and other material costs are ex works or production works (INCOERMS 2010) excluding packing, insurance and assembly. Packing is calculated at cost price. If the customer does not expressly request otherwise, INFICON insures the replacement parts etc. required by INFICON for assembly/maintenance/repair outside its works at the expense of the customer against the usual transport risks including damage by breakage.

5. Terms of Payment

5.1 Payments are due on receipt of invoice in as far as an alternative is not stated in the offer/contract confirmation by INFICON.

5.2 Payments are to be made exclusively to the payments office of INFICON. They are to be made on the due date without reductions free of post and free of charges. Fees, charges or other costs which may be accrued by INFICON through a separately agreed discounting of bills or checks shall be borne by the customer. The date of the invoice or the date of the notice of readiness for shipment is decisive for the determination of the due date of payment. Payment obligations of all types are met on the day that INFICON gains access to the amount in question.

5.3 The holding back of payments due to counterclaims is only permissible if said counterclaims are undisputed or legally valid.

6. Participation of the customer

6.1 The customer will support the personnel from INFICON in the implementation of the work at the customer's expense, in particular in providing the required or appropriate technical assistance. The technical assistance provided by the customer must guarantee that the assembly/maintenance/repair can commence promptly following the arrival of INFICON personnel and can be carried out without delay until receipt of the work by the customer. In as far as particular plans and instructions are required from INFICON; it will make these available to the customer in good time.

6.2 Prior to the commencement of the work, the customer must in particular obtain the laws and other regulations applying to the place of delivery and performance and if necessary the required official authorization, make available the necessary materials on the site and complete all preparatory work (e.g. contamination declarations) to the extent that the work can be carried out promptly following arrival.

6.3 It is incumbent upon the customer to provide for the necessary special measures regarding the protection of persons and materials at the site of assembly/maintenance/repair work. The customer will inform INFICON personnel of any existing special safety regulations. In the case of serious violations, the customer, in consultation with INFICON, can refuse the offending person or person's access to the assembly/maintenance/repair site. The customer provides at his/her own cost sufficient insurance for INFICON personnel against dangers and risks associated with the work.

6.4 Work time and work performance by INFICON personnel are to be confirmed in writing by the customer immediately, if necessary continually.

6.5 If required, the customer will provide assistance to INFICON personnel in finding appropriate accommodation and board in the vicinity of the work site. The customer immediately instructs INFICON personnel about obligations (registration etc.) with regard to the local public authorities. Furthermore, the customer supports INFICON personnel in their dealings with the public authorities and provides assistance to said personnel in the procurement of necessary certifications. On the site of delivery and for work, the public contributions (taxes, social insurance contributions, charges etc.) of INFICON personnel are borne by the customer.

6.6 The customer will inform INFICON immediately of any sickness, accident or death of INFICON personnel. The customer arranges medical treatment, transport to hospital, etc., and initially covers the resultant costs - If necessary also of transport to the place of residence - and subsequently settles said costs with INFICON. If the workplace is located outside the Federal Republic of Germany, the customer also assumes responsibility in regard to public authorities and the discharge of necessary formalities.

6.7 Until the conclusion of the work, the customer is obliged to place the entire facility to be maintained or repaired including production equipment and qualified service personnel at the disposal of INFICON.

6.8 The customer provides INFICON with appropriate support for the transport and return transport of the assembly, repair and testing tools as well as spare and replacement parts provided by INFICON.

6.9 Should the customer not meet his/her obligations, INFICON is entitled with reservation, although not obliged, to affect the actions incumbent upon the customer following announcement and at the customer's cost.

7. Assembly, maintenance and repair of facilities from other suppliers

7.1 If facilities receive components from other suppliers, for which special assembly personnel is required by the production firm, INFICON is prepared, if desired by the customer, to arrange the assembly of the components according to the conditions stipulated by the production firm.

7.2 The assembly/maintenance/repair of facilities or parts thereof not belonging to INFICON's scope of delivery and the maintenance, repair and alteration of components delivered by other suppliers require in each case a separate agreement.

8. Receipt

8.1 The customer is obliged to take receipt of the assembly/maintenance/repair work as soon as INFICON indicates that this work is completed. Receipt is documented by a jointly produced certificate of receipt. Should the performance not conform to the contractual conditions, INFICON is obliged to correct any defects. This does not apply if the defect is due the circumstances attributable to the customer. If an insubstantial defect is present, the customer cannot refuse receipt if INFICON expressly recognizes its obligation to correct the defect.

8.2 If receipt is delayed without any fault on the part of INFICON, the work is regarded as received two weeks after the conclusion of the assembly/maintenance/repair.

8.3 Once work has been received, INFICON is no longer liable for any discernible defects in so far as the customer has not reserved the right of redress in relation to a specific defect.

9. Warranty

9.1 INFICON warrants correcting defects in the assembly/maintenance/repair work. The customer is obliged to report any defect to INFICON immediately.

9.2 The right of the customer to demand cancellation or reduction in the case of failed correction of defects is unaffected.

9.3 The customer will grant INFICON the time and authorization required for the improvements deemed necessary by INFICON according to equitable discretion; otherwise INFICON is released from liability for defects. Only in urgent cases involving threats to works safety and in order to prevent extensive damage - in which

case INFICON is to be informed immediately - does the customer have the right to correct any defect or have a third party do so and to demand from INFICON compensation for costs thus generated.

9.4 From the direct costs generated by correction of defects INFICON bears - in so far as the complaint proves justified and the indication of the defect takes place properly and in good time the reasonable costs of removal and installation, and in addition - should the individual case equitably demand such costs - the costs required to make available its technical staff and assistants. In all other cases costs are borne by the customer. For repairs in accordance with item 13, the regulations described therein apply exclusively.

9.5 The warranty period for claims regarding defects of the assembly/maintenance/repair work is twelve months following receipt of work.

9.6 In all other cases item 10.4 applies.

9.7 Warranty claims will only be accepted if the required maintenance and care procedures were carried out and documented.

10. Additional INFICON liability; right of customer to withdrawal from contract

10.1 The customer can withdraw from the contract if INFICON is unable to complete all work prior to receipt by the customer. The customer can reduce remuneration if the performance of a part of the work proves impossible; if the customer has a justified interest in the rejection of a part performance of work, sentence 1 applies. In such a case, payments already made are to be refunded.

10.2 Should the impossibility of completing performance be the fault of the customer, the customer remains obliged to provide remuneration. The same applies in the case of default in taking delivery, in so far as INFICON is not responsible for such default.

10.3 Should performance be delayed for reasons attributable to INFICON, and if an appropriate deadline extension -linked with the express declaration that the customer will not accept the work after expiry of this deadline - is not met, the customer is entitled to withdraw from the contract.

10.4 More extensive and other claims to guarantees and compensation - regardless of their legal basis, in particular with regard to lost profits and damage resulting from defects - are excluded, in so far as there is no obligatory liability regarding intent, gross negligence, non-observance of fundamental contractual obligations or according to the product liability law for damage to persons or damage to privately used materials.

11. Compensation obligations of the customer

If, through no fault on the part of INFICON, components, devices or tools placed by INFICON at the site of assembly/maintenance/repair are damaged or lost, the customer is obliged to provide compensation for this damage. Such damage does not include damage due to normal wear and tear.

12. Other

12.1 The place of performance and legal domicile is Cologne. INFICON is also entitled to take legal action at the domicile of the customer's head office.

12.2 The law of the Federal Republic of Germany applies as a supplement to all contractual agreements. The application of the uniform UN Sales Convention (CISG) is excluded; the same applies in the case of contracts with foreign customers to international and German regulations governing conflict between laws.

13. Additional provisions in the case of repairs at an INFICON factory

The following conditions apply to repair work carried out at an INFICON factory. They have priority in regard to the above conditions in so far as they exclude, revise or amend them.

13.1 The customer must deliver the object to be repaired at the customer's own expense and risk at the time arranged.

13.2 The object to be repaired is to be delivered in a form of packaging that allows for easy and secure handling and that can be re-used for return transport. Risk and costs resulting for noncompliance with these instructions are borne by the customer.

13.3 INFICON will exercise customary caution in ensuring the safe keeping of the object to be repaired. The risk of incidental worsening of the defect or of incidental destruction is borne by the customer.

13.4 INFICON dispatches the repaired object at the expense and risk of the customer. In so far as the customer does not expressly indicate otherwise, INFICON insures the repaired object at the customer's expense against the usual transport risks including breakage.

13.5 The customer is obliged to inspect the repair work at his/her own costs immediately following communication of readiness for dispatch. Should the customer fail to do this, the inspection will be regarded as performed 14 days after dispatch or communication of readiness for dispatch.

13.6 If there is any delay in the return dispatch due to circumstances which are not the responsibility of INFICON, the customer is obliged to pay the repair costs once the report of readiness for dispatch has been received. At the same time the risk passes to the customer.

13.7 INFICON has the right to retain the repaired object until all financial demands linked with the business relationship, including subsidiary demands, have been met.

Note:

As required by the German Federal Data Protection Act, the customer is hereby advised that INFICON electronically stores and processes customer data.