

Term and Conditions of Sale

1. General

These Terms and Conditions of Sale („Terms and Conditions“) shall govern the sale and licensing of products supplied by acCELLerate (“Products”), one of its subsidiaries or authorized sellers (altogether referred to as “acCELLerate”) to any original purchaser (“Buyer”), that is a business company and not an individual. These Terms and Conditions shall replace and supersede all previous versions of acCELLerate’s terms and conditions of sale unless individually agreed and mutually signed by acCELLerate and Buyer.

2. Offering, Ordering, Prices

By displaying Products on acCELLerate’s online-shop, a valid price list or a written proposal, acCELLerate is providing a binding offer to the Buyer. The Buyer can place a firm purchase order in writing either by mail, fax or email. When using the online shop the Buyer can move product items into the cart and can modify the content of the cart without any obligation. By clicking the button “Confirm Order” the Buyer is entering a binding contract of sale submitting a purchase order to acCELLerate. Purchase orders, once confirmed and accepted by acCELLerate, are not subject to cancellation or modification without acCELLerate’s written consent.

Prices of Products exclude freight, packaging, insurance, fees, taxes, and duties, which shall be payable by the Buyer. Freight and packaging including dry ice will be prepaid by acCELLerate and added to the invoice for reimbursement by the Buyer. acCELLerate may at any time change the specifications or prices of Products or stop providing and supporting any of its Products completely. acCELLerate will use commercially reasonable efforts to communicate such events in advance.

3. Delivery & Payment

Products will be packed in acCELLerate’s standard packages and shipped by a carrier of acCELLerate’s choice. Some Products require to be shipped on dry ice. Estimated delivery dates stated by acCELLerate or delivery dates set forth in a purchase order of the Buyer are non-binding and subject to change. acCELLerate does not guarantee any delivery dates and shall not be liable for any loss or damage of any kind caused by any delay in delivery whatever may have caused the delay. In countries of the European Union Products are Delivered Duty Paid (DDP, Incoterms 2000) excluding VAT. The Buyer shall be responsible for paying VAT or similar taxes charged in its country. Outside the European Union acCELLerate ships FCA, Hamburg. Title and risk of loss or damage will pass to Buyer upon delivery of the product to the carrier.

acCELLerate will invoice the Buyer for its purchase at the time of delivery. Invoices issued by acCELLerate are due within thirty (30) days of the invoicing date and shall be paid to acCELLerate in full by wire transfer to acCELLerate’s bank account. Products remain in the property of acCELLerate until the full payment of the invoice has been received by acCELLerate. For late payments acCELLerate may charge 0.7% of the amount payable for each month overdue. A Buyer whose credibility could not be confirmed or is questioned by acCELLerate may be required to prepay the invoice amount before acCELLerate confirms the purchase order and dispatches the Products.

5. Limited License

acCELLerate grants to Buyer a non-exclusive, non-transferable license to use the Products. The license is restricted to the purpose of the Products stated in the manual, the product information, or application notes referring to the Product (“Intended Purpose”). Any use different from the intended purpose, any reverse engineering of the Product or its component or any re-use of a consumable component of the Products is excluded from the license.

In case a Product is provided with a limited use license specific to this particular Product the terms and conditions of this license shall with respect to this Product govern the Terms and Conditions stated herein. No right or license to any patent or other intellectual property owned or controlled by acCELLerate is granted by these Terms and Conditions upon purchase of any Product, whether expressed or by implication. Furthermore, Buyer acknowledges that Buyer is solely responsible for determining whether Buyer possesses all intellectual property rights that may be necessary for Buyer’s specific use of the Product, including any rights from third parties.

6. Product Use

Unless otherwise indicated the Products are for research purposes only and shall not be used in humans or for diagnostic applications. The Buyer agrees to accept all risk and responsibility regarding the receipt, handling, storage, disposal, use or non-use of the Product and takes all appropriate safety and handling precautions stated in the Material Safety Data Sheet of the Product to minimize health or environmental risk. The Buyer agrees that any activity undertaken with the Product will be conducted in compliance with all applicable guidelines, laws and regulations. Buyer specifically agrees and warrants that Buyer will not transfer, resell, or distribute Products, or components thereof, neither directly nor indirectly, to third parties unless explicitly authorized by acCELLerate in writing.

7. Limited Warranty

acCELLerate warrants the specifications of its Products which are explicitly stated in "product specification" document accompanied with the product. However, any given warranty applies only to the Buyer and only if the Buyer (i) uses the product within six (6) month after receipt of the product, (ii) if the Products has been verifiably stored under the conditions stated in the product information provided with the product, and (iii) the product has been used strictly according to the protocol provided with the product.

TO THE EXTENT PERMITTED BY APPLICABLE LAW ACCELERATE DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATIONS WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. ACCELERATE MAKES NO REPRESENTATION AND PROVIDES NO WARRANTY THAT THE USE OF THE PRODUCT WILL NOT INFRINGE ANY PATENTS OR THIRD PARTY PROPERTY RIGHTS.

8. Complaints, Liability, and Indemnification

Any claims the Buyer may raise for damaged, missing, or defective Products must be reported to acCELLerate in writing within 14 days from the date of receipt. For a valid claim acCELLerate shall either replace the product or at its sole discretion reimburse the Buyer for the net price of the product including charges for freight and packaging. Replacement or reimbursement shall be the only remedy the Buyer may expect for damaged, missing or defective Products. Except to the extent caused by acCELLerate's gross negligence or willful misconduct acCELLerate shall not be liable for any indirect, consequential or incidental damages of any kind, resulting from the use or non-use of the product by the Buyer. In no event acCELLerate's liability shall exceed the amount paid by the Buyer to acCELLerate in the prior twelve (12) month.

Buyer agrees to indemnify, defend, and hold harmless acCELLerate against all claims, expenses, damages or losses and liability of any kind resulting or alleged to result from (i) Buyer's breach of any of these terms and conditions, (ii) Buyer's use of the Product in any manner or for any purpose other than the intended use, or (iii) any use of the Products not in accordance with the Product's specifications or documentation. The Buyer shall not bring acCELLerate into any lawsuit involving the Product unless such lawsuit arises from the gross negligence or willful misconduct of acCELLerate.

9. Miscellaneous

Any additions or modifications to this agreement between the Buyer and acCELLerate must be made in writing and executed by both parties. The waiver of any provision or any breach thereof shall not affect any other provision of these Terms and Conditions.

If one or more provisions are or will become invalid or unenforceable, the validity of the other provisions shall not be affected. In such a case, acCELLerate shall replace the invalid provision(s) with a legally admissible arrangement, which comes closest to the intended purpose of the invalid provision(s).

This agreement shall be governed in all respects by the laws of Germany. The place of jurisdiction is Hamburg.

Hamburg, December 28th, 2016
(Version 1.3, © acCELLerate GmbH)