

# GENERAL TERMS AND CONDITIONS

Postnova Analytics UK Ltd



## 1. GENERAL

[1] These terms and conditions apply to all offers, deliveries and services of Postnova Analytics UK Ltd towards all contractual partners. They also apply to all future legal transactions between us and the contractual partner.

[2] We do not accept any conflicting or deviating terms and conditions of the contractual partner, not even through unconditional execution of the contract, unless these are confirmed by us in writing.

[3] All agreements made between us and the contractual partner for the purpose of executing this contract must be set out in writing in this contract or in an amendment contract. A cancellation or amendment shall only apply to the respective conclusion of the contract.

[4] Unless otherwise stated in these Terms and Conditions, the terms and definitions of INCOTERMS 2020 shall apply.

[5] The rights of our contractual partner within this contract are not transferable.

[6] The invalidity of individual provisions shall not affect the validity of the remaining provisions.

## 2. CONCLUSION OF CONTRACT

[1] Our offers are non-binding and valid for 30 days, unless otherwise agreed. Likewise, technical descriptions and other details in offers, brochures and other information are initially non-binding.

[2] Postnova Analytics reserves the property rights and copyrights to all illustrations, drawings, calculations, specifications and other documents. These may not be made accessible to third parties.

[3] If an order is not confirmed by us in writing within two weeks, it shall be deemed to have been rejected.

[4] Information within the meaning of paragraph 1 as well as in public statements by us, other manufacturers and their representatives shall only become part of the service description if this is expressly referred to in writing in this contract or in the order confirmation.

## 3. PRICES & TERMS OF PAYMENT

[1] Unless otherwise agreed, our prices are ex works (EXW Malvern, UK) net in GBP and include standard product packaging. Additional expenses, such as for the conclusion of insurance policies or special packaging and shipping requirements, shall be covered by the contractual partner.

[2] If the costs incurred by us for the delivery change after submission of the offer or the order confirmation in the period up to delivery, e.g. due to the subsequent introduction or increase of duties, taxes or other charges on the goods, in particular duties and anti-dumping or countervailing duties or similar, as well as in the event of a change in currency parities, we shall be entitled to adjust the offered or agreed price accordingly.

[3] Unless individually agreed with the contractual partner, purchase price payments shall be made by bank transfer immediately upon receipt of the goods, pure net and without deduction of any fees. They shall be deemed to have been made from the date on which the amount is freely available to us. The deduction of discounts requires a special written agreement. Any taxes or customs duties etc. levied in the recipient country for the transaction shall be covered by the contractual partner.

[4] The statutory value added tax is not included in our prices; it will be shown separately on the invoice at the rate applicable at the time.

[5] The contractual partner has no right of set-off and no right of retention, not even for undisputed or legally established claims or demands.

## 4. DELIVERY

[1] The scope of our delivery obligation results exclusively from the written order confirmation. We reserve the right to make design, shape and color changes based on improvements in technology or on legal requirements, provided that the changes are not substantial, unreasonable for the contractual partner or represent a downgrading of the qualitative scope of requirements and services.

[2] Unless a delivery date has been explicitly agreed as binding, our delivery dates and deadlines are exclusively non-binding information.

[3] If a delivery date confirmed as binding by Postnova Analytics is exceeded through the fault of Postnova Analytics, the contractual partner is entitled to set a reasonable grace period for delivery and, if this grace period expires without result, to withdraw from the contract.

[4] If partial deliveries are requested, agreed, reasonable or acceptable by the contractual partner, these may be made and invoiced.

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[5] The delivery period starts on the date of our written order confirmation, which contains the expected delivery date. If all details have not yet been defined when the order confirmation is sent, the expected delivery date shall be postponed until they have been finally clarified. The specification of delivery deadlines is always subject to the proper cooperation of the contractual partner. Compliance with our delivery obligation presupposes the timely and proper fulfillment of the contractual partner's obligations. Subsequent changes requested by the contractual partner and failure to provide the documents to be supplied by the contractual partner in time (e.g. necessary approvals and releases) and fulfillment of all other requirements shall result in a corresponding extension of the delivery period. The delivery deadline shall be deemed to have been met if the delivery item is ready for dispatch within the agreed deadline and we have notified the contractual partner of this.

[6] If, contrary to expectations, Postnova Analytics is not supplied itself despite observing the necessary duty of care, although corresponding orders have been placed with reliable suppliers, the contractual partner shall be informed immediately. In this case, we shall be released from our obligation to perform and reserve the right to withdraw from the contract, whereby the contractual partner shall be reimbursed for all payments already made.

[7] If it becomes apparent after conclusion of the contract that the contractual partner does not offer sufficient guarantee of his solvency and our claim for payment is at risk, we shall be entitled to refuse delivery until the contractual partner has effected payment or provided security for it. If payment or provision of security is not made within 10 working days following a request to this effect, we shall be entitled to withdraw from the contract.

[8] If the contractual partner is delayed more than 5 working days with call-off, acceptance or collection, or if he causes a delay in dispatch or delivery, we shall be entitled, without prejudice to further claims, to demand a lump sum retroactively from the first day in the amount of the usual local storage costs, irrespective of whether we store the goods with us or with a third party. The contractual partner reserves the right to prove that no or less damage has been incurred.

[9] If the contractual partner withdraws from the contract without justification, we are entitled to demand 20% of the gross order value as compensation. The same shall apply if the contract is not fulfilled for reasons for which we are not responsible. The contractual partner reserves the right to prove that no or less damage has been incurred. A return of purchased goods against partial reimbursement of the purchase price is generally excluded if a seal of the goods is damaged or the original packaging has been opened.

[10] If the agreed deadline cannot be met as a result of circumstances beyond our control and unforeseeable by us, our suppliers or the contractual partner (e.g. natural disasters, war, riots, intervention by higher authorities, energy shortages, labor disputes, etc.), it shall be extended accordingly. In this case, the contractual partner shall be informed immediately. If those circumstances still persist 6 months after the expiration of the agreed delivery period, both parties may withdraw from the contract. Further claims due to exceeding the delivery period for which we are not responsible are excluded.

## 5. PLACE OF PERFORMANCE & TRANSFER OF RISK

[1] The place of performance is the principal place of business of Postnova Analytics UK Ltd. Unless otherwise agreed, delivery shall be ex works. This shall apply irrespective of who covers the freight costs and also in the case of partial deliveries.

[2] The risk is transferred to the contractual partner upon dispatch of the goods. If delivery is delayed due to circumstances for which the contractual partner is responsible, the risk shall pass to the contractual partner upon notification of readiness for dispatch. Damage to the goods after the transfer of risk (even if still stored at Postnova Analytics) does not release the contractual partner from its obligation to pay the purchase price in full.

## 6. WARRANTY & DEFECTS

[1] The contractual partner is obliged to inspect delivered goods and services immediately for defects and to complain about obvious defects immediately in writing within 5 working days. Otherwise, the entire delivery shall be deemed accepted. The obligation to inspect also includes operating and assembly instructions.

[2] The contractual partner may not derive any further rights from material defects that do not or only insignificantly impair the value and suitability of the goods. The goods shall be deemed free of defects if the underlying or agreed specifications are fulfilled at the time of the transfer of risk.

[3] If the goods have a defect at the time of transfer of risk, we shall be entitled and obliged to provide rework. Rework shall be performed at our discretion by repair or replacement, insofar as this is reasonable for the contractual partner. The costs of rework, in particular transport, travel, labor and material costs, shall be covered by us. If these costs account for more than 50% of the delivery value, we shall be entitled to refuse rework and withdraw from the contract.

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[4] If rework fails, is unreasonable for the contractual partner, does not take place within a reasonable period set by the contractual partner or is refused, the contractual partner shall be entitled, at its discretion, to withdraw from the contract, to demand a reduction in the purchase price corresponding to the value of the defect or to claim damages.

[5] If our operating and maintenance instructions are not followed, if parts are replaced or materials are used which do not correspond to the original specifications, or if unqualified personnel intervene, our liability for defects shall lapse to the extent that defects have arisen as a result. If there is a defect, the contractual partner must prove that the defect was not caused by one of the above actions. The same applies to repairs, which may only be carried out by personnel qualified by Postnova Analytics.

## 7. LIABILITY

[1] Unless otherwise agreed in these terms and conditions, including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations within the scope of the relevant statutory provisions.

[2] We shall only be liable for damages - irrespective of the legal grounds - in the event of intent and gross negligence.

[3] Further contractual and tortious claims of the contractual partner are excluded. We shall therefore not be liable in particular for damage that has not occurred to the delivery item itself, nor for loss of profit or other financial losses of the contractual partner.

[4] The limitations of liability resulting from the above paragraphs 2 - 3 shall not apply if we have fraudulently concealed a defect. The same applies to the claims of the contractual partner under all relevant UK Product Liability laws.

[5] Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff, representatives and vicarious agents.

## 8. RETENTION OF TITLE

[1] Ownership of the delivered goods shall remain reserved until all our claims against the contractual partner arising from the business relationship, including future claims arising from contracts concluded at the same time or later, have been settled. This shall also apply if claims have been included in a current invoice and the balance has been struck and recognized.

[2] The contractual partner is entitled to sell or process the goods in the ordinary course of business. If the goods are processed, combined or mixed with other goods, we shall in principle acquire a co-ownership share in the new item until full payment has been made, in the case of processing in the ratio of the value (= gross invoice value including ancillary costs and taxes) of the goods subject to retention of title to the value of the new item, in the case of combination or mixing in the ratio of the value of the goods subject to retention of title to the value of the other goods.

[3] The contractual partner hereby assigns to us all claims that arise to him from the resale against a customer or third party. He shall remain authorized to collect these claims even after the assignment. This shall not affect our right to collect the claims ourselves; however, we shall not make use of this right as long as the contractual partner duly fulfills his payment and other obligations. Upon request, the contractual partner must inform us of the assigned claims and their debtors, provide all information necessary for collection, hand over the associated documents and inform the debtors of the assignment.

[4] If the contractual partner acts in breach of contract, in particular in the event of default in payment, we shall be entitled to withdraw from the contract and take back the goods. For the purpose of taking back the goods, the contractual partner hereby irrevocably permits us or a representative officially authorized by us to enter his business and storage premises without hindrance and to collect the goods.

[5] To the extent and for as long as the retention of title exists, the contractual partner may neither assign goods or items manufactured from them as security nor pledge them without our consent. The conclusion of financing agreements (e.g. leasing) which include the transfer of our reserved rights shall require our prior written consent, unless the agreement obliges the financing institution to pay the share of the purchase price to which we are entitled directly to us.

[6] In the event of insolvency, seizures and other interventions by third parties, the contractual partner must inform us immediately in writing. He is prohibited from entering into agreements with his customers which could impair our rights. He is obliged to insure the reserved goods immediately and to a sufficient amount against theft, machine, fire and water damage as well as against elemental damage and force majeure.

[7] We undertake to release the securities to which we are entitled at the request of the contractual partner and at our discretion to the extent that the realizable value of the securities exceeds the claims by more than 20% or their nominal amount by more than 50%.

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## 9. LIMITATION PERIOD

[1] The contractual partner's claim for subsequent performance shall become time-barred one year after delivery of the goods; there are no warranty claims for used products. Accordingly, the right to withdraw from the contract and reduce the purchase price is excluded in accordance with the statutory provisions. The limitation period for claims for damages is one year.

## 10. COMPLIANCE & EXPORT CONTROL

[1] It is expressly understood and agreed that this Agreement, and all obligations arising hereunder, are subject to U.K. export control laws and regulations, including the Export Control Act 2002 and the associated Export Control Order 2008. Furthermore, to the extent any technical data is exchanged between the parties, the receiving party represents and warrants that no technical data furnished to it by the disclosing party shall be disclosed to any foreign nation, firm, or country, including foreign nationals employed by or associated with the receiving party, nor shall any technical data be exported from the United Kingdom without first complying with all requirements under applicable U.K. export control laws and regulations, including obtaining any required export licenses or authorizations. The receiving party shall first obtain the written consent of the disclosing party prior to submitting any request for authority to export any such technical data. The receiving party shall indemnify and hold the disclosing party harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from the failure of the receiving party to comply with this clause or applicable U.K. export control laws and regulations.

[2] In particular, the contractual partner is obliged to actively cooperate and provide complete information in order to ensure a timely and smooth export.

### Postnova Analytics UK Ltd

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