

**STEINERT US, INC.**

**Terms and Conditions of Sale**

**Conditions of Sale:** Any product ("Product") sold by or through Steinert US, Inc. ("SUS") to a buyer ("Buyer") is sold subject to the following terms and conditions (these "Terms and Conditions"). SUS hereby notifies Buyer in advance that SUS objects to any terms and conditions in Buyer's purchase order or other document which are additional to or different from these Terms and Conditions, whether or not such additional or different terms would materially alter this contract. If a contract between Buyer and SUS is established through performance or other conduct of the parties, the terms and conditions of that contract shall not be deemed to consist only of terms and conditions as to which the parties' writings agree, but rather these Terms and Conditions shall be a part of that contract and shall prevail over the conflicting and/or different terms and conditions of any other document forming a part of the contract.

**Offers not Binding:** SUS reserves the right to refuse any and all offers of purchase for any reasons whatsoever at its sole option and discretion.

**Purchase Order:** Buyer must issue a written purchase order (a "Purchase Order"), signed by an authorized representative of Buyer, for all orders. Purchase Orders must reference SUS proposal number and date, include full shipping address for Product delivery, and include the USD value of the order. The issuance of a Purchase Order by Buyer shall be deemed to evidence and authenticate the Buyer's acceptance of these Terms and Conditions. Upon receipt of Buyer's Purchase Order, SUS (at its sole discretion) shall evaluate the Buyer's then current performance of payment to SUS, other suppliers and creditors, and US's acceptance of a Purchase Order is subject to SUS's satisfaction with such payment performance.

**Payment Terms (Buyer Within the US and Outside the US):** A **30%** non-refundable payment is due within 15 days of SUS's receipt of Buyer's signed Purchase Order. SUS will place order with the manufacturer upon SUS's receipt of such non-refundable payment. An additional **50%** non-refundable payment shall be due within 10 days of SUS's written notice to Buyer that the Product is ready for shipment. The Product will be released for shipment upon SUS receipt of the additional payment. The **20%** final payment is due and payable within 30 days of delivery of the Product to the designated location.

**General:** Sums not paid when due will incur interest at the maximum contract rate permissible in the Commonwealth of Kentucky. All sums payable to SUS shall be payable to SUS at 285 Shorland Drive, Walton, KY 41094, unless otherwise specified in writing. The amount of credit or terms of payment may be changed or credit withdrawn by SUS at any time. If in SUS's judgment, Buyer's financial condition does not justify the terms of payment specified herein, SUS may cancel this contract unless Buyer shall immediately pay for all goods which have been delivered and pay in advance for all goods to be delivered. Goods held for Buyer are at Buyer's sole risk and expense.

**Taxes:** Sales, use, income, intangible, personal property and any other taxes, excluding US import tax/duty, are the sole responsibility of Buyer. Buyer agrees to be responsible for, and to pay, any and all applicable federal, state and local taxes.

**Terms of Delivery:** All prices are based upon delivery to Buyer's location as specified in the SUS proposal, and are inclusive of freight and US import tax/duty when applicable, unless the SUS proposal specifically states to the contrary. Prices for sales to Canada are based upon delivery CIF to customers, exclusive of any applicable Canadian taxes. Sales outside of the continental USA and Canada shall be as per written mutual agreement. Delivery shall be in accordance with the SUS proposal. Shipping and delivery date is subject to compliance with payment terms, customs approval/clearance and vessel and land based transportation availability. All shipment and delivery dates are estimates and subject to change. SUS shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer if SUS fails to meet the specified delivery schedule because of unavoidable production, delivery or other delays.

**Packing and Shipment: Inspection:** Packaging shall be as per manufacturer's requirements. The Product may be delivered via sea container, truck, or other conveyance unless specifically agreed otherwise in writing by SUS and Buyer. Buyer is responsible for unloading the Product from conveyance and any resulting damages to the Product. Buyer shall report to SUS in writing any damage incurred during shipping immediately upon receipt. Failure of Buyer to inspect the Product within five (5) days after delivery constitutes a waiver of Buyer's right to inspect and shall be deemed equivalent to acceptance as provided in Section 2-606 of the Uniform Commercial Code ("UCC").

**Risk of Loss:** Risk of loss shall pass to the Buyer upon delivery. Title to the Product, with all rights and remedies, shall remain exclusively with SUS until receipt of full and final payment. Buyer assumes all risk of loss or damage to the Product upon delivery to Buyer's designated location and any loss or damage thereafter shall not relieve Buyer from any obligation hereunder.

**Specifications:** The manufacturer provides all specifications to SUS and SUS relies solely on those specifications for its quotations and sales. In the event of any discrepancy between those provided by SUS to Buyer and those contained in manufacturer's written documentation, the manufacturer's specifications shall apply.

**Documentation:** Two (2) copies of the manufacturer's manuals, in English, will be provided to Buyer upon delivery of the Product.

**Limited Warranty:** SUS warrants to the Buyer only that the Product sold by SUS will be free from defects in material and workmanship for a period of 12 months from the date of delivery. For this limited warranty to apply, Buyer shall maintain preventative maintenance and shall comply with all applicable service and maintenance requirements provided for by the manufacturer or in the equipment manual. SUS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCT AND SUS SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND FREEDOM FROM INFRINGEMENT CLAIMS. Warranty claims must be made in writing during the warranty period to SUS at the following address: Steinert US, Inc, 285 Shorland Drive, Walton, KY 41094, Attn.: Warranty Claims Manager. SUS, at its option, will repair or replace any Product found to be defective in materials or workmanship. The foregoing remedy is exclusive and is granted in lieu of all other remedies. IN NO EVENT WILL SUS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES OF ANY KIND. This warranty does not cover damage resulting from ordinary wear and tear, misuse, neglect, accident, alterations, failure to follow instructions, fire, or acts of God. Shipping costs to and from SUS are not covered by this warranty and shall be paid by Buyer.

**Waiver:** No waiver by SUS of any of the terms, provisions, or conditions hereof or any modification of such terms, provisions, or conditions shall be effective unless made in writing and signed by an authorized representative of SUS. Any failure of SUS to enforce at any time, or for any period of time, any of the provisions of this contract shall not constitute a waiver of such provisions nor of SUS's right to enforce each and every provision hereof.

**Setoff:** SUS shall be entitled at all times to setoff any amount owing, for any reason, at any time, from SUS or any of its affiliated companies to Buyer against any amount payable at any time by Buyer to SUS.

**Buyer's Insolvency:** If SUS discovers Buyer to be insolvent, it may: (i) refuse to deliver any goods except in exchange for cash; (ii) stop delivery pursuant to Section 2-702 of the UCC; or (iii) where SUS discovers that Buyer has received goods on credit while insolvent, SUS may immediately reclaim the goods. This provision shall have no effect on SUS's right to require assurance under Section 2-609 of the UCC or letter of credit.

**Reservation of Rights:** SUS expressly reserves all rights and remedies which are available to it at law or in equity, including, but not limited to, the rights and remedies set forth in the UCC.

**Intellectual Property:** The sale by SUS of the items ordered hereunder does not grant, convey or confer upon Buyer or Buyer's customers or upon anyone claiming under Buyer, a license express or implied under any intellectual property rights of SUS.

**Notices:** All notices to be given with respect to this contract, unless otherwise provided for, shall be given in writing, return receipt requested, to SUS and to the Buyer respectively at the addresses shown on the SUS proposal to which this is attached.

**Severability:** Buyer further agrees in the event any provision of this contract is held to be illegal, invalid or unenforceable under present or future laws, rules or regulations effective during the term thereof, said provision shall be deemed to be modified to the extent required to comply with said law, rule, or regulation, as so modified, shall remain in full force and effect.

**Binding Effect:** This contract is binding upon and will inure to the benefit of the parties hereto and their respective successors and assigns.

**Validity:** All prices are valid for **thirty (30) days** from date of the SUS proposal unless otherwise agreed in writing by SUS.

**Confidentiality:** Both parties shall keep the terms, conditions and pricing of this contract confidential. This provision shall survive the expiration, termination or cancellation of this contract.

**Force Majeure:** Under no circumstances shall Buyer hold SUS responsible (and SUS shall not be liable) for breach, damages or delays in performance caused by force majeure, extreme weather or other acts of God, acts of terrorism, strike, or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure or delay in transportation, failure of normal sources of supply, change in law or other act of government, or other events beyond the reasonable control of SUS.

**Limitation of Remedies and Liabilities:** Buyer's sole and exclusive remedy pursuant to any claim of any kind against SUS with respect to a Product shall be (a) the repair or replacement of such Product, or (b) at SUS's sole option, a refund of the purchase price paid by Buyer to SUS for such Product. SUS SHALL NOT BE LIABLE TO BUYER, ITS CUSTOMERS, EMPLOYEES OR AGENTS, UNDER ANY CLAIM OR CIRCUMSTANCES (INCLUDING WITHOUT LIMITATION ANY CIRCUMSTANCE INVOLVING A FINDING THAT A WARRANTY OR REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE), WHETHER THE CLAIM SOUNDS IN CONTRACT, TORT OR OTHER LEGAL THEORY, FOR INDIRECT (INCLUDING BUT NOT LIMITED TO COSTS OF REMOVAL AND REINSTALLATION), INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS OR REVENUE, LOST SALES, LOST GOODWILL OR LOSS OF USE OF ANY PRODUCT.

**Modification:** These Terms and Conditions, including any SUS proposal to which they are attached, constitute the entire contract among the parties pertaining to the subject matter hereof and supersede all prior and contemporaneous agreement and understanding of the parties in connection therewith. No representation, warranty, covenant, agreement or condition not expressed in these Terms and Conditions or the proposal shall be binding upon the parties hereto or shall affect or be effective to interpret, change or restrict the provisions of this contract. Any change in the scope of work, services, price, schedules, or other modifications to this contract shall not be binding on the parties unless in writing and signed by the parties. No modification or alteration of these provisions shall result by SUS's shipment of goods following receipt of Buyer's Purchase Order or other documents containing provisions, terms, or conditions in addition to, in conflict with, or inconsistent with these provisions. No course of prior dealings between the parties shall be relevant to supplement or explain any term hereof.

**Governing Law:** The validity, performance and construction of this contract, and any Purchase Order issued pursuant hereto, shall be governed by the laws of the Commonwealth of Kentucky.

**Venue:** Any litigation or other legal proceeding of any kind based upon or in any way related to this contract, its subject matter, or the rights or obligations of the parties to this contract, will be brought exclusively in an appropriate court of competent jurisdiction (state or federal) located in Boone County, Kentucky, U.S.A. (if the action is brought in state court) or in the Eastern District of Kentucky, U.S.A. (if the action is brought in federal court); provided that nothing contained herein will prevent SUS from bringing any action or exercising any rights against Buyer or its property within any other state or nation.

**Attorney's Fees:** In any action, suit or proceeding to enforce, defend or interpret the rights under the terms of this contract or to collect any amounts due hereunder, the prevailing party shall be entitled to recover all costs and expenses incurred in enforcing, defending or interpreting its rights hereunder, including, but not limited to, all collection and court costs, and all attorneys' and paralegal fees, whether incurred out of court, at trial, on appeal, or in bankruptcy or administrative proceedings.



## Steinert Equipment Customs Requirements

Due to Homeland Security Regulations:

All Steinert Equipment to be shipped from our Germany Factory to a US Destination is now required to include the users **Federal ID Number** with the Destination and Shipping Contact information.

For all shipments please provide:

Company Name

Street Address

City, State, Zip Code

**Federal Identification Number**

Contact Person and Phone Number

Please provide this information with your order.

This will help reduce unnecessary delays in the receipt of your equipment.

Thank you for your cooperation in this matter.

***Steinert US INC***

285 Shorland Drive

Walton, KY 41094



## **Steinert Equipment Delivery Guidelines from Germany**

### **DDP**

Delivery and Customs Duty costs are included for all shipments of Steinert Equipment being delivered to the Continental United States.

### **DDU**

Delivery only is included for to Shipments to Canada or Mexico, and Customs Duty is the responsibility of the Customer.

### **MANUFACTURING**

Normal manufacturing time for products shipped from **Steinert GmbH** in Cologne Germany depends on the type of equipment:

UME & UMP (Over-bands) = **10 weeks**

BRP & MTP (Permanent Drums) = **+1, 1 weeks**

MRB & MOR (Pre-Separators) = **8 weeks**

NES & CM (Eddy Current Separators) = **10 weeks**

ISS (Induction Sort Systems) = **10 weeks**

MTE (Drum Magnets) = **8 weeks**

XSS (X-Ray Sort Systems) = **12 weeks**

XRF (X-Ray Fluorescent) = **10 weeks**

KSS (Shape Sort Systems) = **10 weeks - from date of PO & deposit receipt.**

### **SHIPPING**

After manufacture, the units are packed for overseas shipment by vessel and scheduled for security screening and loading. This usually takes **2 weeks**.

The oversea voyage duration varies based on the weather and the Port of Destination, but averages **2-3 weeks East Coast and 5 weeks West Coast**.

When the ship arrives in Port, the cargo is inspected by customs and loaded on a truck for your destination. This will take about **1 week**.

### **DELIVERY**

You will be contacted by the Trucking Company for an appointment to unload your Steinert Equipment. Unloading is not included in the cost of delivery.

**This adds up to a normal time of 12 - 19 weeks for delivery.**

As an alternate, some equipment is suitable for Air Freight Shipment at additional cost. Please contact Steinert US for details.



## Equipment Commissioning

The commissioning of equipment by Steinert US, Inc. ("**SUS**") to a customer is subject to the following terms and conditions (these "**Terms and Conditions**").

1. **Priority of Terms and Conditions.** These Terms and Conditions apply exclusively to SUS's services in connection with the commissioning of equipment and shall amend but not alter the terms and conditions of the proposal and/or order acknowledgement by SUS pursuant to which the equipment is supplied and commissioned. SUS objects to any terms and conditions in the customer's purchase order or other document submitted by the customer which are additional to or different from these Terms and Conditions, whether or not such additional or different terms would materially alter this contract.
2. **Customer Obligations.**
  - (a) Unless otherwise agreed with a customer, the setup and installation of equipment sold by SUS to a customer is not part of the sale. A customer shall be fully responsible for the setup and installation of the equipment in accordance with the instruction, installation manuals and applicable legal requirements.
  - (b) The customer will provide SUS with full, safe, and prompt access to the customer site and with any equipment and facilities that SUS reasonably requires for commissioning the equipment. The customer will further ensure that SUS can perform its services in an easily accessible location with adequate health and safety conditions and space. Where possible, the customer will provide a technically competent person with knowledge of the relevant systems and to actively assist in troubleshooting. The customer will accommodate any other action that SUS may reasonably request in order to best perform its services, including the provision of all other material and services not specifically agreed to be provided by SUS. The customer will ensure safety at the customer site and will inform SUS of any applicable safety regulations and advise SUS of any hazardous conditions at the customer site. The customer will advise the SUS service manager immediately of any defective services.
3. **SUS Obligations.**
  - (a) When commissioning equipment at a customer site, SUS will ensure that only competent and trained staff provide the services on its behalf and that the services are provided in a good and commercially reasonable and professional manner and with due care and skill. SUS will comply with the methods practiced and the standards of diligence and care normally exercised by persons in the industry in the performance of comparable functions and with the requirements of all statutes, regulations and standards so far as they apply to the provision of the services. SUS will follow the customer's reasonable instructions and safety regulations but will not perform any services with respect to products not supplied by SUS. SUS may subcontract the services, in which case the subcontractor is considered included in the term "SUS."



- (b) The commissioning services shall include the following:
  - (i) to check if the installation of equipment accomplished by the customer is correct,
  - (ii) to check if utility specifications are in compliance with the minimum equipment specifications,
  - (iii) the supervision of the first start-up of the equipment, and
  - (iv) the initial training of the responsible staff regarding the use of the equipment, regular surveillance of equipment and maintenance.
- (c) The commissioning services shall be documented by issuing a detailed protocol which shall be signed by SUS and the customer.

- 4. **Confidentiality.** To the extent that SUS observes or obtains confidential and proprietary intellectual property or materials of the customer in the course of performing its services hereunder, SUS will keep such information confidential and will not disclose it to any third party or use it for its own purposes. The foregoing obligation only applies if the customer identifies to SUS any particular intellectual property, materials or other items that represent the customer's confidential and proprietary intellectual property, so that SUS may understand what the customer considers confidential and proprietary and can meet this requirement. Information or technology that is in the public domain or that was already known by SUS prior to being exposed to information that the customer considers proprietary is not considered confidential information subject to this paragraph.
- 5. **Insurance Coverage.** SUS will maintain general liability insurance in limits not less than \$1,000,000 and shall promptly furnish the customer with documentation evidencing same upon the customer's request.
- 6. **Limitation of Liability.** For any claims of any kind against SUS under these Terms and Conditions, the customer will be limited to recovering only its direct damages up to but not in excess of \$10,000. SUS shall not be liable under any claim or circumstance, whether the claim sounds in contract, tort, or other legal theory, for indirect, incidental, or consequential damages, including without limitation damages for lost profits or revenue, lost sales or loss of use of the equipment, even if SUS has been advised of the possibility of such damages, or for any claim against the customer by any other party.
- 7. **Governing Law; Venue.** These Terms and Conditions shall be governed by the laws of the Commonwealth of Kentucky. Any dispute arising out of or relating to these Terms and Conditions shall be resolved exclusively in the courts having within their jurisdiction the City of Walton, Kentucky.