

General Terms and Conditions of Business (GTB) for Training and Instruction Services of Mitutoyo Europe GmbH

1. Scope of Application

1.1.
The following Terms and Conditions apply supplementarily to the General Terms and Conditions (GTB) for Works and Services of Mitutoyo Europe GmbH as sole authority governing the business relationships of Mitutoyo Europe GmbH (hereinafter known as "Mitutoyo") and its Customers, including information and consulting related to the training and instruction services.

1.2.
These General Terms and Conditions of Business apply exclusively to companies in the sense of Section 14 BGB (German Civil Code).

2. Subject of the Contract

2.1.
The subject of the contract for an order, depending on the agreement, is

- the training in operation of the Mitutoyo products and/or software specified in the order confirmation from Mitutoyo;
- the communication of basic measuring procedures and/or software functions concretized in detail by Mitutoyo within the framework of the training and instruction measures;
- the communication of measuring procedures and measuring techniques with respect to concrete workpieces.

2.2.
Subject of the contract is in this case solely the effort on the part of Mitutoyo in the form of a service to give the registered participants a better understanding of the operation of the particular device, basic measuring procedures, or – if included in the order – measuring procedures related to the measuring of a concrete workpiece. The success of the training or instruction, in particular the achievement of actual mastery of the above-mentioned operating skills or mastery of the above-mentioned measurement procedures, shall not be owed.

2.3.
A written or data documentation of the training/instruction contents or results shall be owed only if and when Mitutoyo has expressly confirmed this in writing in its offer or order confirmation.

3. Conclusion of Contract and Cancellation

3.1.
The Customer shall notify Mitutoyo in writing in due time before the conduct of any individual training measures of any special requirements for the measuring procedures and methods to be presented, in particular with respect to an object provided by the Customer which is to be used for measuring.

3.2.
In the event of a cancellation of participation in a non-individual training and instruction measure or of the cancellation of an individual, customer-specific training or instruction measure, the following lump-sum cancellation fees shall be paid by the Customer to compensate Mitutoyo for the expenditures it has incurred:

- Up to two weeks before the date of the instruction/training = 40% of the agreed net compensation;
- Up to one week before the date of the instruction/training = 65% of the agreed net compensation;

in each case plus the statutory value-added tax. The Customer is entitled to prove that the incurred expenses were actually less.

4. Measurement Results and Their Evaluation

4.1.
Mitutoyo shall be entitled to the sole copyright to the measurement results achieved within the scope of the instruction/training measures or device demonstrations. The above provision shall also apply if the measured object used for demonstration purposes and/or the measuring equipment is owned by and/or in the possession of the Customer.

4.2.
Mitutoyo will, however, in the event of an agreed instruction or an agreed training session concerning the communication of skills for measuring procedures and methods which are related to individual workpieces of the Customer, provide to the Customer a copy of the results of demonstration measurements (measurement records) for the purposes of study by the Customer and of non-commercial exploitation.

4.3.
The Customer promises not to exploit commercially the measurement results given to him within the framework of instructions, training measures, or device demonstrations and not to relinquish the measurement results to third parties – in any form whatsoever – unless Mitutoyo has given its prior written consent to the relinquishment to third parties.

4.4.
Mitutoyo expressly points out

- that the documented measurement results reflect only the current status of the parameters being measured at the point in time of the demonstration and under the general conditions at the site, in particular the room climate;
- that other climatic data outside of the demonstration measurement process may lead to other, in particular to deviating measurement results;
- that measured objects may affect the measurement results by their physical properties and their ability to change with respect to shape and mass;
- that external factors after leaving the demonstration measurement environment can affect the measured object provided by the Customer to such an extent that there may be deviations with regard to the measurement and tolerance parameters designated by Mitutoyo.

5. Customer's Cooperation Obligations

The Customer promises to undertake all of the cooperative actions required for the performance in compliance with the contract of the service owed by Mitutoyo whenever individual instructions/training measures are held on the Customer's premises.

6. Export Control

6.1.
Mitutoyo is not obligated to conduct training or demonstration services with respect to measurement objects/workpieces provided by the Customer which, due to their nature or their intended purpose or their planned final place of use, are subject, with respect to the export control, to an approval obligation on the basis of pertinent export regulations and embargo regulations, in particular those of the European Union (EU), Germany or other EU member states, and of the USA.

6.2.
The Customer is obligated to provide truthfully any and all information – at the request of Mitutoyo, in writing before the beginning of the demonstration, and free of charge – which is required for a review of the right to refuse performance by Mitutoyo pursuant to Clause 6.1.

6.3.
The Customer indemnifies and holds harmless Mitutoyo from and against any and all losses or damage which may result to Mitutoyo from the culpable breach of the above obligation pursuant to Clauses 6.1 – 6.2.

7. Changes of Terms and Conditions of Business, Severance

7.1.
If a current or future provision of the concluded contract should be or become, in whole or in part, invalid/void or unenforceable for reasons other than those of Section 305 – 310 BGB, the validity of the remaining provisions of the contract shall not be affected.

The same applies in the event that oversights or exclusions are found after conclusion of the contract. The Parties shall replace the invalid/void/unenforceable provision or oversight/exclusion with a valid provision that contains the legal and economic import of the invalid/void/unenforceable provision and takes into account the entire content of the contract. The application of Section 139 BGB (Partial Invalidity) is expressly excluded.

7.2.
The change service for these GTB is conducted on the Web site www.mitutoyo.eu.