

General Terms and Conditions of Sale and Delivery of air-lab GmbH

1. Contractual bases

1.1 Our terms and conditions apply for all agreements, deliveries and services, including consulting and additional services, both now and in the future. Any differing terms and conditions of the customer are hereby objected to. Agreements shall only be binding once they have been confirmed by us in writing.

1.2 Data, drawings, images, technical data or weight, dimension or service descriptions contained in advertisements, catalogues, price-lists, prospectuses, circular letters or documents being part of the offer represent approximate values such as are customary in the industry, unless the order confirmation explicitly indicates that they are binding, in which case too we reserve the right to carry out any necessary model changes or adjustments in accordance with Article 315 of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*).

1.3 Company data in our data processing serves exclusively business purposes and is processed exclusively in accordance with the German Data Protection Act (*Datenschutzgesetz*).

1.4. Partial deliveries are permitted, provided that they are reasonable for the customer.

2. Prices

2.1 Prices should be understood as including packaging ex works the seller.

2.2 Insofar as prices are not stated or are stated subject to “the current listed price”, the listed prices effective on the date of the delivery will be charged (plus currently applicable VAT). In the event of significant cost increases, for example for wages, primary materials or freight charges, the agreed price shall be appropriately adjusted in accordance with their impact.

3. Payment terms

3.1 The purchase price shall be due for payment within 14 days from the invoice date, irrespective of the receipt of the goods and any complaints. Irrespective of other instructions of the customer, all payments shall always be first credited to interest and costs and subsequently to our oldest receivables.

3.2 Retention of payments is not permissible. Consumers are entitled to a right of retention insofar as it is based on the same contractual relationship. Setting off is only permitted with claims which are undisputed or have been established with legally binding effect. Any agreed discount deduction shall be conditional on punctual settlement of all liabilities, including from other contracts.

3.3 In the event of a delay in making payment, interest shall be charged according to the current bank rates for short-term loans and at least in the amount of 8% over the current base interest rate, without prejudice to further claims arising from default. The customer shall retain the right to provide evidence of lower losses.

3.4 Our receivables shall fall due for immediate payment, irrespective of the term of any accepted bills of exchange, if payment terms are not complied with or circumstances come to light that could reduce the customer's creditworthiness. Without prejudice to more far-reaching rights, we may carry out outstanding deliveries only against prepayment and also, without rescinding the contract, prohibit resale and reuse of goods subject to retention of title, revoke the collection authorisation and demand the return of the goods at the customer's expense or take possession of them, without the customer being entitled to a right of retention or a similar right. We will be able to utilise goods taken back through sale on the open market and credit to the customer the proceeds remaining after the deduction of all expenses.

3.5 Our claim for compensation for losses due to non-performance amounts to at least 30% of the price without any obligation to provide proof and without prejudice to the customer's right to provide proof of lower losses. The customer may provide proof that losses or a reduction in value have not occurred at all or are significantly lower than the flat rate.

4. Retention of ownership and its special forms

4.1 All goods are subject to retention of ownership and shall remain our property until all our receivables have been

settled, including balance claims. Working or processing of the goods subject to retention of title shall occur for us as the manufacturer in the meaning of Article 950 BGB, without obligating us.

4.2 If the goods subject to retention of title are processed, connected to or combined with other goods we shall be entitled to co-ownership of the new item or inventory in the ratio of the invoice value of the goods subject to retention of title to the invoice value of the other goods. For the event that our ownership title expires due to connection or combining, the buyer transfers to us already now the ownership rights to the new item or inventory to which it is entitled in the amount of the invoice value of the goods subject to retention of title (which it shall safekeep for us free of charge).

4.3 The customer may only sell goods subject to retention of title in the normal course of business as long as it complies with the payment terms, with the proviso that claims from the resale shall transfer to us in accordance with section 4.5.

4.4 The resale of goods subject to retention of title is equivalent to installation in the ground or in installations connected to buildings or use for the purpose of performing work or other contracts.

4.5 The customer assigns to us, already now, its receivables from the resale of goods subject to retention of title, including current account claims, in the amount of the value of the goods subject to retention of title. In the event of the resale of goods to which we hold a co-ownership title, the assignment shall be deemed to have occurred in the amount of our co-ownership title.

4.6 The customer may collect receivables up to the time of our revocation, to which we shall be entitled for good cause, particularly in the event of a delay in making payment. In the event of such revocation, at our request it must immediately notify its customers of the assignment if we do not do it ourselves, and it shall provide us with any information or documents we request for the purpose of collection. The customer also undertakes for itself and its legal successors, in the event of retention of ownership or extended retention of ownership claimed by us, to promptly provide any information on the processing or sale of the goods which is useful for the purpose of tracking our retention of ownership or extended retention of ownership or the advance assignment and resulting rights and claims.

4.7 For the event the customer is entitled to claims against insurers or other third parties due to damage, price reduction, loss or destruction of goods subject to retention of title or for other reasons, it assigns them to us already now in advance, along with all ancillary rights.

4.8 The customer is obliged to promptly notify us in the event of attachments, seizure, other disposals or interventions by third parties with regard to the goods. Breaches of obligation of the customer, particularly a delay in making payment, shall entitle us, once a reasonable time limit set for the customer to render the performance has ineffectively lapsed, to rescind the contract and take back the goods. This does not affect the provisions of law on the dispensability of setting a time limit. In such a situation, the customer shall be obliged to immediately surrender the goods.

4.9 We undertake to release the security to which we are entitled at the customer's request, insofar as the realisable value of our security exceeds the claims to be secured by more than 20%. The choice of which security to release will be made by us.

4.10 Rights stemming from retention of ownership and all the above-mentioned special forms shall be effective until we are fully released from any contingent liabilities which we have entered into in the customer's interests.

5. Place of performance and place of jurisdiction

5.1 The place of performance for our deliveries is the respective storage location of the goods. For the payment Kirchhundem is deemed to be the place of performance.

5.2 If the customer is a trader, Kirchhundem is the sole place of jurisdiction for any disputes that may arise directly or indirectly from the contractual relationship. However, we shall also have the right to take legal action at the location of the customer's registered office.

5.3 German law applies, to the exclusion of laws on the International sale of goods.

6. Delivery times

6.1 The delivery time should be deemed to be only approximately agreed. Time limits and deadlines shall be deemed to have been complied with upon notification that the goods are ready to be shipped. They shall be extended, without prejudice to our further rights, by the period for which customer fails to fulfil its obligations, including under other contracts, plus a reasonable lead time. We shall have the right to make partial deliveries.

6.2 In the case of call orders the delivery period shall begin on the date of the call-off. If the acceptance does not occur, does not occur in good time or is incomplete, we shall have the right to place the goods in storage at the customer's expense and risk, whereupon the goods shall be deemed to have been accepted.

6.3 In the event of a delay in making delivery, if it has incurred losses the customer will be able to demand compensation in the maximum amount of 0.5% for each completed week of the delay and in total a maximum of 5% of the price for the part of the deliveries which could not be installed due to the delay.

6.4 Any claims for compensation for losses of the customer due to late delivery or claims for compensation for losses in lieu of performance exceeding the limits referred in section 3 above are excluded. This does not apply insofar as there is a mandatory liability in cases of wilful misconduct or gross negligence or due to loss of life or injury to the body or health. The customer will only be able to rescind the contract under the provisions of law if we are responsible for the late delivery. The above provisions do not imply any change in the burden of proof to the customer's detriment.

6.5 The customer shall be obliged, at our request, to declare within a reasonable period of time whether it wishes to rescind the contract due to the delay in making delivery or insists on receiving the delivery.

6.6 Goods reported as being ready for shipping or collection by the stipulated date must be immediately called off, otherwise we will be able, according to our free discretion, to place them in storage at the customer's expense and risk and charge for them as for delivered goods. If the goods are not immediately called off, we shall have the right to charge the customer a storage fee for each commenced month in the amount of 0.5% of the price of the goods delivery and in total a maximum of 5%. Both parties' right to provide proof of higher or lower storage costs remains unaffected.

6.7 All unforeseeable and extraordinary events, particularly strikes, lock-outs, important components being defective, operational disruptions or similar events for which neither we nor our upstream suppliers are responsible shall exempt us, for their duration, from the obligation to fulfil the contractually agreed delivery obligations. However, we must promptly notify the customer insofar as we invoke a circumstance releasing us from our performance obligation.

7. Transfer of risk and acceptance

7.1 The risk shall transfer to the customer upon the goods being made ready for shipping or being collected. The customer must have any damage in transit confirmed by the carrier in writing upon receipt of the goods, otherwise we may reject it.

7.2 If the shipment is delayed for reasons for which the customer is responsible or if the customer delays with acceptance for other reasons, the risk shall transfer to the customer.

7.3 We take out transit insurance for all goods against the usual transport risks, as a component of the transportation costs to be borne by the customer. Where the goods are collected, insurance by us is not possible.

7.4 The customer must await the shipment and unload it, otherwise (according to our choice) the goods will be unloaded, stacked, placed in storage or returned at the customer's expense and risk. Any waiting periods shall be borne by the customer.

7.5 The customer may not refuse to accept deliveries due to insignificant defects.

7.6 Taking back packaging and accessory parts is excluded.

8. Material defects

8.1 If the delivered goods have a material defect within the warranty period whose cause already existed upon the transfer of risk, we shall provide a supplementary performance (according to our choice) either through rectification (two attempts at rectification are deemed to be agreed) or through a replacement delivery. The supplementary performance by us shall occur within reasonable time limits. For the first attempt at rectification a time limit equal to the original delivery period is reasonable.

8.2 The time limitation period for claims for material defects amounts to two years. This does not apply if the law provides for longer time limitation periods or in the event of an injury to life, the body or health, a breach of obligation due to wilful misconduct or gross negligence by us or if a defect is fraudulently concealed. The provisions of law on suspension of expiry, suspension and recommencement of the time limitation periods remain unaffected.

8.3 The customer must promptly report any material defects in writing.

8.4 The customer may only retain payments if a complaint is submitted with regard to whose legitimacy there can be no doubt. Payments may only be retained to an extent which is reasonably proportionate to the material defects that have come to light. If the complaints regarding defects are unjustified, we shall have the right to demand that the customer reimburse us for the expenses we have incurred.

8.5 First we must be given the opportunity to provide a supplementary performance within a reasonable time limit. If the customer fails to give us/our authorised representatives sufficient time/opportunity for this or if changes or repairs are made to the item subject to complaint without our explicit consent, we shall be released from the liability for defects. The scope and costs of the customer's own rectification work must in any event be agreed with us before the work is carried out. From the direct costs that arise due to the rectification/replacement delivery we shall bear the costs of the replacement part, including shipping and reasonable prime costs of de-installation and installation, and if it can be reasonably demanded based on the circumstances of the individual case the costs of any necessary provision of our fitters and assistants. An exception to this are cost increases resulting from the fact that the purchased goods have been taken to a location other than the place of delivery (shipping address). Otherwise the customer shall bear the costs. We provide no warranty for damage which occurs due to the following reasons: improper or inappropriate use, incorrect installation or commissioning by the customer or third parties, natural wear and tear, incorrect or careless handling, inappropriate operating materials or replacement materials, defective construction work or chemical, electrochemical or electrical influences for which we are not responsible. The same applies for changes or repair work carried out by the customer or third parties inappropriately or without our prior consent. Installation of third-party components/alteration of our components shall result in the expiry of this warranty claim.

8.6 If we are unwilling or unable to provide a supplementary performance, particularly if it is delayed beyond reasonable time limits for reasons for which we are responsible or if the supplementary performance otherwise fails, the customer shall be entitled to a right to rescission or a price reduction, to the exclusion of more far-reaching claims.

8.7 Claims for defects shall not exist with regard to only minor deviations from the agreed characteristics/quality or with regard to only a minor impairment of usability or with regard to natural wear and tear.

8.8 Claims of the customer relating to the expenses necessary for the purposes of the supplementary performance, particularly transport, travel, labour and material costs, are excluded if the expenses increase because the goods delivered by us are subsequently taken to a different location than the customer's shipping address, unless such relocation is consistent with the goods' intended use.

8.9 Recourse claims of the customer against us under Article 478 BGB shall only exist insofar as the customer has not made any arrangements with its contract partner to our detriment over and above the statutory claims for defects. For the scope of the recourse claim of the customer against us under Article 478 par. 2 BGB section 8.8 applies accordingly.

8.10 For claims for compensation for losses, section 9 (other claims for compensation for losses) also conclusively applies. More far-reaching or other claims of the customer against us and our vicarious agents due to a material defect are excluded.

9. Claims for compensation for losses

9.1 Claims for compensation for losses and expenses of the customer, irrespective of the legal basis, particularly due to breaches of contractual obligations or due to impermissible action, are excluded.

9.2. This does not apply in the event of mandatory liability, for example under the German Product Liability Act (*Produkthaftungsgesetz*), in cases of wilful misconduct or gross negligence, due to loss of life or injury to the body or health or due to a breach of key contractual obligations. In the event of a violation of key contractual obligations, the claim for compensation for losses shall, however, be limited to the losses foreseeable under a typical contract, except in the event of wilful misconduct or gross negligence or liability due to loss of life or injury to the body or health. This does not imply any change in the burden of proof to the customer's detriment.

9.3 These claims for compensation for losses/expenses of the customer shall expire by time limitation when the time limitation period applicable for claims for material defects under section 8.2 ends. In the case of claims for compensation for losses under the German Product Liability Act the provisions of law on time limitation of claims apply.

9.4 The exclusion of the claim for compensation for losses also encompasses consequential losses resulting from defective software or data records.

10. Third-party beneficiary rights, prohibition of assignment

No rights of third parties shall be established. The assignment of rights, receivables and claims shall require our prior written consent.

11. Partial ineffectiveness

Should a provision of these terms and conditions and the other arrangements made be or become ineffective, the effectiveness of the other provisions of the contract shall not be affected.

In the interests of ongoing technical improvements, we reserve the right to make amendments.

As at: 1.1.2013