

General Terms and Conditions of AMS TECHNOLOGIES AG

I. Scope, Deviating purchase conditions, Written Form, Rights to Drawings, Trade Clauses

1. All offers, order confirmations, consignments and services of AMS TECHNOLOGIES AG (hereinafter referred to as „Seller“) shall exclusively be subject to the following conditions (hereinafter referred to as „AGB“). Terms and conditions of the Buyer that are contrary to or differ from these AGB will not be accepted unless the Seller has given prior individual notice of approval in written form. In the event of continuous business relations, these AGB shall also be valid for all future commercial operations.
2. Orders, declaration acceptance, modifications and other agreements made prior to or at the time of the conclusion of the contract must be in written form in order to be legally effective. This shall also be true for legal warranties [Beschaffenhheitsgarantien]. Modifications to the contract shall also be put into writing.
3. Without exception, the Seller reserves all proprietary exploitation rights with regard to the estimate of expenses, drawings and other documents; third parties may only gain access to these documents if and as far as the Seller grants prior written approval. On demand, the aforementioned estimates of expenses, drawings and other documents shall be returned to the Seller without delay if the Seller is not awarded the contract or if a contract with the Buyer is not concluded for any other reason.
4. Unless expressly agreed in writing otherwise or specified by the Buyer in writing, the information submitted in connection with any orders shall not be deemed confidential.
5. When in doubt, the decisive factor for the interpretation of trade terms shall be the INCOTERMS as amended at the time.

II. Offer, Conclusion of contracts, Representation, Specifications

1. The offers of the Seller shall be without obligation and unbinding unless expressly referred to or agreed as binding in writing. The Buyer shall be bound to his offer for one week if the goods are in stock and for the period of four weeks otherwise. An effective contract shall only be concluded at the time of a written confirmation of the order as received by the Seller or, at the latest, at the time of the acceptance of the goods by the Buyer.
2. The Seller's salespersons are neither authorized to conclude oral supplements to an agreement nor to give oral warranties that exceed the contents of the written agreement

unless the Buyer might rest assured that the aforementioned persons were entitled to act accordingly.

3. Specifications of weight, size or other services and data as well as drawings and illustrations shall only be binding if and as far as this is expressly agreed in writing.

III. Prices, Alteration in prices

1. The quotes of the Seller shall be understood as net prices devoid of effective VAT and exclusive of packing, freight, installation or assembly costs ex warehouse. These charges as well as VAT shall be additionally quoted.
2. In the event of changes in costs, if the delivery takes place more than one month after the contract was concluded and if a fixed price was not agreed, the Seller shall be entitled to appropriately adjust the prices according to the changes that have meanwhile occurred in wages, salaries, material and manufacturing costs. This also applies to changes in costs that are due to changes in currency exchange rates.

IV. Self-supply, Contract for delivery in instalments, Delivery time and Time of performance, Default in delivery

1. With regard to the Buyer, the Seller shall not be in default if self-supply did not take place or did not take place in time unless the Seller is liable for the fact that self-supply did not take place or did not take place in time. Once it is certain that self-supply with the ordered goods will not take place for reasons the Seller is not liable for, the Seller shall be entitled to withdraw from the contract. The Seller shall be at liberty to choose the pre-supplier.
2. Unless otherwise agreed on individually, the following shall apply to contracts for delivery in instalments:

Instalment delivery agreements shall be limited to a term of 12 months from the date of the conclusion of the contract at the most. The net value of each ordered instalment delivery shall at least amount to 1/6 of the total value. The Buyer shall place orders for periodically approximately similar quantities. If and as far as the agreed total quantity is exceeded in the scope of the individual orders, the Seller shall be entitled but not obliged to deliver subject to the agreed conditions. Provided that the dates for call orders of the individual instalment deliveries are not agreed in writing, the Seller reserves the right to deliver according to his sole discretion, regard being had to the Buyer's interests. Should any uncalled-for quantities from the total order volume still be pending for delivery after

the lapse of the instalment delivery agreement (compare clause 1), the Seller reserves the right to deliver these remaining quantities in one single shipment.

3. The dates of and terms for delivery specified by the Seller shall be without obligation unless expressly agreed otherwise or stated otherwise by the Seller. Except when otherwise stipulated, terms for delivery shall start upon the date of the order confirmation but only after all details of the execution of the order are clarified, particularly receipt of all documents that need to be provided by the Buyer, necessary authorizations, releases, due clarification of plans and adherence to the agreed terms of payment. Irrespective of the Seller's rights deriving from the Buyer's default, the times for delivery shall extend by that period of time in which the Buyer does not fulfill the obligations towards the Seller or by the period of time in which the contract goods cannot be sent in due time for reasons neither the Seller nor his suppliers can be held liable for. If agreed that the Buyer shall provide a security or pay a deposit, a delivery term agreed on will start upon receipt of the security or deposit at the earliest.
4. In the event of force majeure or other unforeseeable circumstances, e.g. monetary or trade policy or other sovereign measures, lawful strikes/lockouts, disruption in operations (fire, shortage of raw materials or power), that temporarily bar the Seller from delivering the goods at the binding or non-binding time or within the agreed term, these terms/dates shall be extended by the period of time that equals the period during which the impairment of the obligation's performance existed as a result of these circumstances. If such a disturbance leads to a performance delay of more than three months, the Seller shall be entitled to withdraw from the contract.
5. If and as far as the Seller is in default, the Buyer shall grant an additional period of time of reasonable length in writing. Once the reasonable time has elapsed without results, the Buyer may withdraw from the contract only to the extent of the quantities that were not declared to be ready for despatch prior to the expiration of the time limit. The Buyer shall only be entitled to withdraw from the entire contract if the part performances rendered are of no interest to him.
6. The Buyer may demand compensation for the damage due to delay in performance if the Seller can be held liable for the damage for reason of intention or gross negligence. With regard to slight negligence, the liability shall be limited to damages that are predictable in the scope of the typical characteristics of the contract.
7. In any case, according to paragraph IV. 6., the liability shall be limited to a maximum amount of 10 % of the agreed purchase price of that part of the goods the Seller is in default with regarding the delivery.

V. Shipping, Passing of risk, Issue of release orders

1. Unless otherwise agreed, the delivery/collection of the goods shall take place at the cost and risk of the Buyer free carrier (FCA INCOTERMS). In the absence of different agreements, the risk shall pass to the Buyer on transfer of the goods to a freight forwarder or carrier, however, no later than on the point of time the goods leave the warehouse or the supplier. If shipping is delayed for reasons the Seller is not liable for or if the Buyer does not accept the goods in time although they were presented to him as per agreement, the risk shall pass to the Buyer with the notice of the willingness to conduct shipping.

Provided the Seller is supposed to install or assemble products at the Buyer's, the risk shall pass to the Buyer on installment or assembly at the latest.

2. Packaging, dispatch type sequence and means of transport shall be left to the Seller's choice unless otherwise agreed.
3. Release orders for goods that are contractually announced ready for dispatch shall be issued immediately; otherwise, the Seller – in his sole discretion – shall be entitled to either send them to the Buyer at the Buyer's expense or to store and invoice without delay.
4. If shipping is delayed for reasons the Seller cannot be held liable for or if the Buyer does not accept the goods in time although they were presented to him as per agreement, the Seller shall be entitled to invoice a penalty amounting to .5 % a month, however not exceeding 5 % in all, of the total invoice value from the day subsequent to that of the readiness for dispatch, if and as far as the Seller cannot substantiate higher costs or further damages caused by delay.

VI. Installation and assembly

1. As far as installation and assembly services rendered by the Seller were agreed in writing, the following regulations shall apply unless otherwise stipulated in writing:
2. Prior to installation or assembly, all supply parts necessary for commencing the operations that are to be provided by the Buyer must be present at the place of installation or assembly. All possibly necessary preparatory work that is to be provided by the Buyer must be advanced in a way that permits the Seller's designated personnel to immediately start and conduct installation/assembly without stopping after arrival. Prior to installation/assembly and without further request, the Buyer shall be obliged to inform the Seller in writing about any blind power supply, water, gas or similar lines and installations

as well as about any magnetic fields where applicable and to make the corresponding illustrative material available. The Buyer shall bear the responsibility for the existence of suitable bus bars or other means of operation.

3. Unless otherwise agreed, the Buyer must provide the auxiliary material necessary for installation/assembly as well as back staff like skilled workers, subworkers etc. at his own expense.
4. If installation/assembly is delayed due to reasons the Seller cannot be held liable for or due to reasons emanating in the Buyer's sphere of responsibility, the Buyer shall bear the costs for the standby time and any further necessary travel/accommodation expenses for the installation/assembly personnel.

VII. Terms of payment, Delayed payment, Deterioration of funds, Retention of goods/Set-off

1. All claims shall be due at the time of the delivery of the goods and shall be paid in full within 30 days following delivery and date of invoice. Costs of monetary transactions shall be borne by the Buyer.
2. Bills of exchange and cheques shall only be accepted upon prior agreement and only on account of performance and upon invoicing of all expenses accrued.
3. In the event of delayed payment, the interest rate on the unsettled account shall amount to 8 % per annum above the current basic interest rate. The assertion of further damages shall be reserved to the Seller.
4. If, after conclusion of the contract, it becomes apparent that the Seller's right to the counter-performance is endangered by the Buyer's lack of capacity, the Seller shall be entitled to refuse performance until the Buyer effects the counter-performance or provides appropriate security. The Seller may specify a reasonable period of time during which the Buyer – at his choice - shall either effect the counter-performance or provide security as a concurrent condition for the Seller's performance. After expiration of the term, the Seller shall be entitled to withdraw from the contract and / or demand compensation for damages or expenses if the legal requirements for these claims are met.
5. The Buyer shall only be entitled to enforce a right of retention with regard to claims of the Seller if and as far as it is based on claims that rest on the same contractual relationship and are uncontested, ready for decision or have become res judicata. Set-off shall be excluded as far as the counter-claim is not uncontested, ready for decision or has not become res judicata.

VIII. Reservation of title

1. Being reserved goods, all goods delivered by the Seller shall remain property of the Seller up to the full settlement of all of the Seller's claims deriving from the contractual relationship and any other claims the Seller acquires now or in the future for whatever legal ground (including balance claim from open account). This shall also apply if payments were made on specifically identified claims. During open account, the reserved goods shall serve as security for the Seller's outstanding balance claims.
2. The Buyer shall be entitled to process and resell the reserved goods in the course of adequate and orderly business connections. For this case, the Buyer herewith assigns all future claims deriving from the resale of the reserved goods to the Seller as security for the Seller's claims that originate from the business relation; the Seller hereby accepts these assignments of future claims. Whilst the Seller is owner of the reserved goods, he shall be entitled to revoke the authorization for resale if a factually justified reason exists.
3. The Buyer shall be revocably authorized to collect the assigned claim. The authorization of the Seller to collect the claims himself shall remain unaffected; the Seller, however, herewith pledges himself not to collect the claims for as long as the Buyer meets his payment obligations appropriately. If the Buyer fails to meet his payment obligations in an appropriate way and if, thus, the Seller revokes the authorization for collection, the Buyer shall – at Seller's request – be obliged to make the assignment known to his customers. Furthermore, the Buyer shall provide the Seller with the information about the assigned claims and the respective debtors necessary for the assertion of his rights and deliver all documents necessary for this purpose.
4. For as long as the reservation of title exists, pledging, chattel mortgage, leasing or any other surrender or change of the reserved goods compromising the Seller's safeguarding shall require the prior written approval of the Seller.
5. Any processing or transformation of the reserved goods shall take place on behalf of the Seller in a way that allows the Seller to be considered the manufacturer in terms of § 950 BGB [Bürgerliches Gesetzbuch – German Civil Code]. In the event of processing, union or mixture of the reserved goods with other goods that do not belong to the Seller, Seller and Buyer shall be co-owners of the new goods, each of the co-owner's shares amounting to a due proportion of the reserved good's invoice value to the new goods at the time of processing, union or mixture. The Seller herewith offers the Buyer to grant him an expectant right to an emerging co-owner's share. The Buyer herewith accepts this offer. If the reserved goods are sold together with other goods after processing, union or

mixture, the assignment of the claim deriving from this resale shall only apply up to an amount corresponding with the invoice value of the goods delivered by the Seller.

6. In the event of access by third parties, particularly in the event of garnishments, the Buyer shall point out the ownership of the Seller and immediately inform the Seller in order to enable the latter to assert his ownership.
7. Should the Buyer suspend payments permanently – i.e. not only on a temporary basis -, should he file for bankruptcy or should insolvency proceedings be instituted against his assets, he shall – on request of the Seller - be obliged to deliver those reserved goods that are still property of the Seller. Moreover, in the event of any performance of the Buyer noncompliant with the contract, particularly delay in payment, the Seller shall be entitled to demand delivery of the reserved goods. The reduction of the reserved goods shall only constitute a withdrawal from the contract if the Seller states this explicitly.
8. On request of the Buyer, the Seller shall be obliged to – by choice of the Buyer – waive the reservation of title or release the securities from chattel mortgages and assignments of future claims if the Buyer fulfilled all obligations with regard to the purchased good or if the realizable value of all securities given to the Seller with regard to the reservation of title, chattel mortgage and assignment of future claims exceeds the total of the claims against the Buyer by more than 10 %.

IX. Annulments, Return of goods

1. Annulments of orders shall only be possible after the Seller explicitly declares his consent in written form (cancellation agreement). If a cancellation agreement is concluded and an agreement concerning the taking back of the goods is found, the Seller shall be entitled to compensation for damages hereby incurred and, with regard to the goods that are to be taken back, to a re-storage fee amounting to at least 30 % of the invoice value unless otherwise agreed.
2. Returns of goods justified on the basis of an agreement in compliance with item XI. 1. shall only be accepted if they were announced at least four days in advance and are accompanied by consignment note, article number, date of dispatch, invoice number and a re-delivery number assigned by the Seller.
3. The Seller shall be entitled to choose whether he wants to accept or reject unjustified returns. If he chooses to accept, the Seller's right to claim the purchase price from the Buyer shall not expire; the risk of accidental loss or deterioration of the goods shall remain that of the Buyer.

4. The regulations in items IX. 1. to 3. shall be inapplicable for the taking back of goods for reason of claims deriving from liability for defects.

X. Liability for defects, Notice of defects

Provided that the cause of a defect already existed at the time of the passing of risk according to item V. 1., the Seller shall be liable for defects pursuant to the following regulations:

1. The Buyer shall inspect the goods for defects immediately after taking delivery and shall give notice to the Seller of any apparent defects without delay, seven days after delivery at the latest, and of hidden defects without delay, not later than seven days after they were discovered. The notice of defects shall be conducted in writing as registered mail-advice of delivery.
2. If the Buyer gives notice of a defect in due time, he shall— by choice of the Seller – be entitled to a claim for removal of the defect free of charge or delivery of goods in perfect condition (supplementary performance [Nacherfüllung]). Replaced parts shall become property of the Seller.
3. Should the supplementary performance according to item X.2. fail, the Buyer shall be entitled to choose to either withdraw from the contract or to reduce payment. Should the Buyer choose to withdraw from the contract for reason of a defect, he shall not be entitled to compensation for damages with regard to this defect.
4. On the occurrence of defects, any processing or manufacturing of the goods shall be discontinued immediately. The Seller shall promptly be given the opportunity to assure himself of the indicated defects. This shall not incur any expenses for the Buyer. If, by choice of the Seller, this does not take place on location, the Buyer shall make the goods available to the Seller on the latter's request and, should the situation arise, ship them at the expense of the Seller.
5. Claims based on defects shall neither exist in the event of irrelevant deviations in quality of the delivered goods from the agreed quality, irrelevant impairment of the fitness of the goods nor in the event of natural wear and tear or natural loss in value from normal use.
1. The Seller shall not be liable for defects that result from the fact that the Buyer did not comply with the operating instructions or the service manual, inflicted modifications on the goods, replaced parts or used consumable supplies that did not comply with the original specifications. In addition, the Seller shall not be liable for defects that result from improper use, inaccurate assembly, repair or commissioning or from inaccurate or negligent treatment.

6. On his own responsibility and in consideration of the duty of reasonable care, the Buyer shall inspect the goods supplied by the Seller for their fitness for use/compatibility prior to the intended use, particularly prior to inserting them into other products/machines and their initial operation. Should the Buyer fail to comply with these duties of inspection and due care prior to utilization or initial operation of the goods supplied by the Seller, the Seller shall be indemnified from liability to the extent that the goods' fitness for use/compatibility for the use intended and announced by the Buyer was not explicitly guaranteed nor agreed in writing prior to the delivery. In the event of damages or defects, the Buyer shall be the party obliged to give proof of the compliance with these duties of inspection and due care.
7. To the extent that the expenses increase because the purchased goods were shipped to a location different from the place of business or the industrial establishment of the Buyer subsequent to delivery, the Buyer shall not be entitled to any claims regarding the expenses necessary for the purpose of supplementary performance (e.g. transportation, toll, labour and material costs) unless the shipping corresponds with the normal utilization of the goods.
8. Only the immediate Buyer shall be entitled to claims based on defects against the Seller. These claims shall not be assignable.
9. Claims of the Buyer based on defects shall become statute-barred after 12 months from the time of delivery of the goods.
10. The Buyer shall only be entitled to claims for damages due to defects as far as the Seller's liability is not excluded or limited in accordance with item XI. of these AGB. Any further claims or claims other than those regulated in this item X. due to defects as to quality shall be excluded.

XI. Liability

1. The Seller shall be liable for intent and gross negligence as well as for the violation of an obligation of substantial importance to the contract (cardinal obligation). The Seller shall not be liable for slight negligence regarding collateral duties that are not cardinal obligations.
2. In the event of a violation of a cardinal obligation due to slight negligence, the Seller's liability shall be limited to damages both foreseeable at the time of conclusion of the contract and inherent to such contracts.

3. In any case of a violation of a cardinal obligation due to slight negligence in accordance with item XI. 2., the Seller's liability shall be limited to the purchase price or – at the utmost – to the amount backed by the insurance.
4. Liability for fraudulent concealment of defects or in the event of taking over legal warranties, concerning claims based on the Produkthaftungsgesetz [Product Liability Act] and personal injuries shall remain unaffected from the afore stated regulations. This shall not involve a change of the burden of proof to the disadvantage of the Buyer.

XII. Inadmissible redelivery of goods

1. The Seller points out that parts of his product range are subject to German and/or US American export regulations and are not intended for re-export. The Buyer pledges to gather corresponding information from the authorities in charge or the Chambers of Commerce prior to redelivering or using the products supplied by the Seller to or in territories outside the Federal Republic of Germany and to behave according to the law.
2. The Buyer pledges to render account of the goods' whereabouts on request if the Seller affirms a legitimate interest.
3. The Buyer pledges to impose the obligations named in 1. and 2. on his customers with the obligation to pass these on correspondingly. Should he become aware of violations of these obligations by his customers, he shall make this known to the Seller immediately.

XIII. Applicable law, place of performance, jurisdiction and partial nullity

1. These AGB and all legal relations between the Seller and the Buyer shall be exclusively governed by the laws and regulations of the Federal Republic of Germany, excluding UN-Sales law.
2. Provided that the Buyer is merchant, the sole place of performance for all delivery and payment obligations deriving from the contracts concluded by the Seller shall be Munich.
3. To the extent that the Buyer is merchant, public law entity or special fund under public law, Munich shall be the exclusive place of venue for all disputes directly or indirectly arising from the contractual relationship. This shall also apply for procedures according to §§ 592 to 605a ZPO [Zivilprozessordnung - Code of Civil Procedure], i.e. summary procedures where the plaintiff relies entirely on documentary evidence [Urkunden-, Wechsel- und Scheckprozeß]. However, the Seller shall be entitled to bring an action against the Buyer in any other statutory jurisdiction.

4. If any provision or provisions of these AGB or a provision in the scope of other agreements shall be held to be or become invalid, the validity of the remaining provisions shall not in any way be affected or impaired thereby.

As of August 2006