

General Terms and Conditions

§ 1 Scope of application

(1) All supplies of goods and services as well as quotations by Aixway3D GmbH ("Seller") are governed exclusively by these General Terms and Conditions of Sale ("Terms and Conditions"). Unless we have expressly consented to them in writing, we will not recognise general terms and conditions of the Purchaser which conflict with or deviate from our own Terms and Conditions. The above provision will not affect any individually stipulated agreements.

(2) These Terms and Conditions are only intended for use with persons who at the time of contracting carry on a trade or who carry on business as an independent contractor or which are legal persons governed by public law or are special funds governed by public law.

§ 2 Conclusion of contract

(1) All quotations given by the Seller are non-binding and subject to change without notice unless they are expressly identified as binding or they contain a specific acceptance deadline. The Seller is entitled to accept orders within a period of 21 days from their receipt. It is, however, obliged to notify the Purchaser without delay if it refuses an order.

(2) The legal relationship between the Seller and the Purchaser is governed exclusively by the written purchase contract concluded by them, together with these Terms and Conditions. The purchase contract and these Terms and Conditions embody the entire agreement between the parties concerning the subject matter of the contract. Any promises made by the Seller prior to the conclusion of this contract are non-binding. Oral agreements by the parties will be replaced by the written contract unless it is expressly clear from them that they are intended to continue in force.

(3) Any additions or amendments made to the agreements reached or these Terms and Conditions must be made in writing and signed in order to be effective. No employees of the Seller other than its directors and officers (Prokuristen) are permitted to make oral agreements that deviate from the terms hereof. Electronic communications, in particular by facsimile or email will suffice to satisfy the requirement of writing and signature if a copy of the signed declaration is transmitted.

(4) Any specifications provided by the Seller as regards the subject of the goods or services (e.g. weights, dimensions, consumption values, strength, tolerances and technical data) or representations thereof (e.g. drawings and illustrations) are to be considered approximations unless use for the purpose contemplated under this contract requires strict compliance with such specifications. Unless expressly agreed otherwise in

an individual case, such specifications do not constitute an express warranty that the goods or services have certain characteristics, but are merely descriptions or designations of them. Unless they interfere with the use of the goods or services for the purpose contemplated under this contract, deviations commonly found in the trade and deviations that are made for the purposes of compliance with provisions of law or which represent technical improvements as well substitution of components by equivalent components will be permissible.

(5) The Seller reserves ownership of and/or copyright in all of the quotations and bids that it makes as well as ownership of and/or copyright in the drawings, images, calculations, brochures, catalogues, models, tools and other documents and aids. Unless the Purchaser has obtained the Seller's express consent, it is prohibited from making the items themselves, or their content available to third parties. It is also prohibited from making such items public and from using or reproducing them itself or via a third party. Upon request from the Seller, the Purchaser must return the items in full and must destroy any copies it has made if it no longer requires the items in the ordinary course of business or if negotiations for a contract fail.

§ 3 Prices

(1) The prices apply to the scope of goods and services listed in the order confirmation. The cost of additional or special goods or services will be invoiced separately. The prices quoted are Euro prices for delivery ex-works. They do not include packaging, value-added tax, or in the case of exports, customs duties, charges or other public levies.

(2) Insofar as agreed prices are based on list prices of the Seller and delivery is scheduled for a point in time more than four months after conclusion of the respective contract, the list prices of the Seller in effect as of the date of delivery will apply (in each case less any agreed percentage or fixed rebates). This also applies accordingly to any change in the value-added tax rate.

(3) Except as otherwise expressly provided in writing, invoice amounts must be paid in full within 30 days of the invoice date. The relevant date for determining whether payment is punctual is the date that payment is received by the Seller. Checks must first be redeemed before they are considered payment. Where the Purchaser fails to pay by the due date, interest on the outstanding amount will be payable at the rate of 5% per annum as from the date that payment was due. The Seller reserves the right to claim higher interest and damages in the event of default

(4) The Purchaser will only be entitled to set off its counterclaims or to withhold payment due to such claims where its counterclaims are uncontested or nonappealable or have been acknowledged by the Seller. The Purchaser will only be entitled to exercise its right to withhold payment if its counterclaim arises from the same contractual relationship. The Seller will be entitled to the full range of set-off and withholding rights stipulated by law.

(5) If circumstances become known after the conclusion of the contract that result in the material deterioration of the creditworthiness of the Purchaser and which would jeopardize its payment of the Seller's outstanding receivables under the respective contract (including receivables from other individual contracts to which the same framework agreement applies), the Seller may make delivery of outstanding goods or services contingent upon payment in advance or provision of satisfactory security.

§ 4 Delivery and delivery dates

(1) Delivery is ex-works.

(2) Unless a fixed delivery period or date for delivery has been promised or agreed, delivery periods and dates indicated by the Seller for goods and services are approximate only. Insofar as shipment has been agreed, the delivery period and dates will be based on the time that the goods are handed over to the freight forwarder, carrier or any other party responsible for transporting them.

(3) Where a non-binding delivery period or delivery date has been exceeded by six weeks, the Purchaser may request the Seller to deliver.

Upon receipt of such request, the Seller will be in default. If the Purchaser is entitled to damages for default based on the Seller's ordinary negligence, its claim will be limited to no more than 5% of the agreed purchase price.

If, in addition, the Purchaser wishes to rescind the contract and/or demand damages in lieu of performance, it must after expiry of the deadline pursuant to subsection 3 sentence 1 or 2 set the Seller a reasonable deadline for delivery. If the Purchaser has a right to damages in lieu of performance, this right will not be available in the event of ordinary negligence. If by chance delivery becomes impossible while the Seller is in default, it will be liable within the above-mentioned limits. The Seller will not be liable in circumstances where the damage would have occurred even if the delivery had been punctual.

(4) If a binding delivery period or date is exceeded, the Seller will be in default as soon as same occurs. In such case, the rights of the Purchaser will be governed by subsection 3 of this section.

(5) The limitations on liability in this section do not apply in the event of injury to life, body or health.

(6) Notwithstanding any rights that the Seller may have as a result of the Purchaser's default, the Seller will be entitled to demand the extension or postponement of delivery periods or dates during such time as the Purchaser fails to fulfil its contractual obligations

(7) The Seller will not be liable to the Purchaser where delivery becomes impossible or is delayed due to force majeure or other events beyond the Seller's control that were not

foreseeable at the time the contract was concluded. Such events include but are not limited to disruptions to operations of all kinds, difficulties in obtaining materials or energy, shipping delays, strikes, lawful lockouts, workforce shortages, shortages in energy or commodities, difficulties in obtaining the necessary governmental permits, governmental measures or failure by subcontractors to deliver, to deliver on time or to deliver in compliance with their contracts). The Seller will be entitled to rescind the contract if such events make delivery substantially more difficult or impossible and the impediment is not just temporary. In the case of a temporary impediment, the delivery periods or dates will be extended for the length of the impediment plus a reasonable start-up period thereafter. If as a result of the delay the Purchaser cannot reasonably be expected to accept the goods or services, it may rescind the contract by giving the Seller written notice without delay.

(8) The Seller will only be entitled to deliver goods in instalments if

- delivery in instalments was expressly agreed between the parties or
- goods delivered in instalments can be used by the Purchaser for the purposes of the contract
- the delivery of the remainder of the goods ordered is guaranteed and
- this does not result in higher or additional costs for the Purchaser (unless the Seller has agreed to assume these costs).

(9) The Seller reserves the right to make changes to and/or deviate from the design or format during the delivery period unless the Purchaser cannot reasonably be expected to accept changes or deviations. Insofar as the Seller uses symbols or numbers for the purposes of identifying an order, no rights may be inferred from this alone. Any specifications as regards the appearance, performance, dimensions or weight etc. of the goods do not constitute express warranties as to their characteristics.

§ 5 Shipping, packaging, passing of risk, acceptance

(1) The Seller may decide on the type of shipping and packaging in exercise of its due discretion.

(2) The risk will pass to the Purchaser at the latest at the time that the goods are handed over to the freight forwarder, carrier or any other party responsible for shipment, i.e. the relevant time is the commencement of loading. This also applies where deliveries are made in instalments or the Seller has assumed additional tasks (e.g. shipping or installation). If the Purchaser is responsible for the delay in shipment or the delay in the handover of the goods, the risk will pass to the Purchaser on the day on which the goods were ready for shipment and the Seller notified the Purchaser of this.

(3) Any storage costs arising after the transfer of risk will be borne by the Purchaser. Where the Seller stores the goods, storage costs will be 0.25% of the invoice amount of the goods stored for every full week of storage. Either party may claim and submit evidence of higher or lower storage costs.

(4) The Seller will only insure the shipment against theft, breakage, transport damage, fire or water damage or other insurable risks if expressly requested to do so by the Purchaser and where the Purchaser assumes the costs.

(5) Where acceptance of the goods is required, acceptance will be deemed to occur when

- the goods are delivered and, if the Seller is responsible for installation, when the installation has been completed,
- the Seller notifies the Purchaser of this and informs it at the same time of the deemed acceptance pursuant to this subsection and requests it to accept the goods,
- 12 working days have elapsed since the delivery or installation or, where the Purchaser has begun using the goods (e.g. has begun operating the system delivered), 6 working days have elapsed since the delivery or installation, and
- the Purchaser has failed to accept the goods within this time frame for a reason, other than a defect which has been reported to the Seller and which makes the use of the goods impossible or significantly impairs their use.

§ 6 Warranties and defects in quality

(1) Claims by the Purchaser for defects in quality will become time-barred within one year from the date of delivery or, where acceptance is required, from the date of acceptance. The statutory limitation period for rights of recourse pursuant to section 478 and section 479 of the German Civil Code (Bürgerliches Gesetzbuch – BGB) will remain unaffected.

(2) The goods must be carefully examined immediately after delivery to the Purchaser or a third party designated by it. In the case of obvious defects or other defects which could have been discovered if the goods had been carefully examined without delay, the Purchaser will be deemed to have accepted them unless the Seller has received written notice of a defect within seven working days from delivery. In the case of other defects, the Purchaser will be deemed to have accepted the goods unless the Seller receives the Purchaser's notice of defect within seven working days from the date that the defect appeared; however, if the Purchaser could have discovered the defect through normal use at an earlier point in time, the earlier point in time will be relevant for determining the notice period. The Purchaser will, at the Seller's request, return the goods complained of carriage paid to the Seller. Where the complaint in the notice of defect is justified, the Seller will reimburse the Purchaser for the most economical means of carriage; this does not apply if the costs of carriage are higher because the goods are located at a site other than the site of their intended use.

(3) Where the goods delivered are defective, the Seller will be obliged and entitled to decide within a reasonable period whether to cure the defect through repair or replacement. Where the Seller fails to cure the defect, i.e. where a cure is impossible or would be unreasonable, or where the Seller refuses to effect repair or replacement, or

where repair or replacement is delayed, the Purchaser may rescind the contract or reduce the purchase price by a reasonable amount.

(4) Where a defect is due to the fault of the Seller, the Purchaser will be entitled to demand damages under the conditions specified in § 8.

(5) Statutory warranties no longer apply if the Purchaser makes changes to the goods itself or through a third party without the Seller's permission, and it thus becomes impossible or unreasonably difficult for the Seller to cure the defect. In any event, the Purchaser will be responsible for any increase in the cost of curing the defect resulting from the changes made.

(6) If, by way of exception, the Seller agrees to deliver second-hand goods in an individual case, no statutory warranties will apply.

(7) The foregoing provisions (in particular, subsection 1) do not affect the Seller's liability under any express warranties as to the characteristics or durability of the goods or its liability for fraudulent concealment of defects, intentional misconduct, gross negligence or injury to life, body or health. In these cases, the statutory provisions/warranty periods apply.

§ 7 Liability

(1) Where these Terms and Conditions provide that the Seller is liable for ordinary negligence in accordance with the law, its liability will be limited. Its liability will be limited to the breach of material contractual obligations (i.e. those which the contract must impose, in view of its content and purpose, and whose fulfilment is of the very essence for the proper implementation of the contract and, upon whose fulfilment, the Purchaser regularly relies or may rely), and to damage that was foreseeable at the time the contract was concluded. The Seller will not be liable for damages if the defects in the goods are caused by ordinary negligence.

(2) Irrespective of any fault on the part of the Seller, its liability in the event of its fraudulent concealment of a defect or from the making of an express warranty or from assumption of a procurement risk will remain unaffected.

(3) Liability for late delivery is conclusively regulated in § 4.

(4) If the Seller provides technical information or gives advice in circumstances where this is not contractually required, it does so free of charge and subject to the exclusion of any liability whatsoever.

(5) The limitations in this § 7 do not apply to the Seller's liability for intentional misconduct, its liability under an express warranty as to the characteristics of the goods, its liability for injury to life, body or health, or its liability under the Product Liability Act (Produkthaftungsgesetz).

§ 8 Technical information

- (1) The Seller's operating instructions and maintenance schedules constitute general guidelines. They are based on the Seller's practical experience and have been prepared to the best of its ability. Due to the variety of ways in which individual products can be used as well as the special circumstances/working conditions in each case, it will be incumbent upon the Purchaser to carry out its own tests.
- (2) Even where the Seller provides the Purchaser with technical support, the Purchaser will bear the risk in relation to the success of its own project.
- (3) For the reasons mentioned above, the Seller will not be liable for the accuracy of the information in the operating instructions/maintenance schedules or for any advice provided otherwise, except in the cases governed by § 7.
- (4) In addition, the Purchaser will comply with the warning notices delivered together with the product.

§ 9 Retention of title

- (1) The Seller will retain title to the goods until all its claims under the contract have been satisfied. In addition, the Seller's retention of title will also cover any claims it has against the Purchaser in connection with their current business relationship until such time as any claims related to the purchase have been settled.
- (2) Upon request from the Purchaser, the Seller will be obliged to waive its retention of title rights if the Purchaser has settled all outstanding claims related to the goods such that settlement cannot be set aside and adequate security has been provided for the Seller's remaining claims in connection with the current business relationship.
- (3) If the goods are processed by the Purchaser, it is agreed that such processing will be carried out on behalf of and for the account of the Seller in its capacity as manufacturer and that the Seller will immediately acquire ownership rights in the new product created proportional to that share of the value of the new product resulting from the goods subject to the retention of title. If materials from several owners are processed or the value of the processed thing is greater than the value of the goods, the Seller will acquire joint ownership rights (co-ownership) in the new product created proportional to the share of the value of the new product resulting from the goods subject to the retention of title.
- (4) To cover the eventuality that the Seller does not acquire such ownership rights, the Purchaser hereby assigns to the Seller any future ownership in the newly created product or, as the case may be, future co-ownership in the newly created product in the ratio above. If the goods subject to the retention of title clause are inseparably combined with or attached to other goods and if one of the other products should be considered the

principal product, the Seller hereby assigns its co-ownership in the resulting product in the ratio specified in sentence one to the Purchaser.

(5) To cover the eventuality that the goods are resold, the Purchaser hereby assigns to the Seller as security any claims against the acquiror resulting from the resale. To cover the eventuality that the Seller has co-ownership rights in the goods resold, the Purchaser hereby assigns to the Seller as security any claims against the acquiror resulting from the resale in proportion to the Seller's co-ownership rights in the goods. The same will apply in the case of other receivables that take the place of the goods to which the Seller retains title or which otherwise come into being in connection with such goods, e.g. insurance claims or tort claims in the case of loss or destruction. The Seller irrevocably authorises the Purchaser to collect receivables assigned to the Seller in its own name. The Seller will only be entitled to revoke this authorisation in the event that it wishes to realize the securities itself.

§ 10 Final provisions

(1) The place of performance for all obligations arising from the business relationship or an individual contract is Aachen.

(2) The courts of Aachen have jurisdiction for all contracts with merchants, legal persons governed by public law and special funds governed by public law; the Seller will, however, be entitled to seek recourse against the Purchaser before the courts of the Purchaser's registered place of business or those of its branch location.

(3) The courts at the place where we have our principal place of business will have jurisdiction if the Purchaser is not subject to the general jurisdiction of a court in the Federal Republic of Germany or if it moves its place of residence or habitual abode to a place outside the jurisdiction of the Federal Republic of Germany. The same applies where the place of business or the habitual abode of the Purchaser is unknown at the time that legal proceedings are commenced. The same applies in litigation where evidence can only be produced in the form of documents as well as in litigation involving bills of exchange or checks. In all other cases involving claims against the Purchaser, the courts at the place where it has its registered office will have jurisdiction.

(4) The law of the Federal Republic of Germany applies. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) is excluded.

(5) If the contract or these Terms and Conditions contain any omissions, they will be replaced by those legally valid provisions which most closely approximate that which the parties would have agreed in view of the economic and legal intent of the contract and the Terms and Conditions had they known of the omissions.

(6) The invalidity of individual provisions will not affect the validity of the contract or the remaining provisions.

