

# General Terms and Conditions (AGB)

of the Ark Vision Systems GmbH & Co. KG, Limburger Str. 51, 35799 Merenberg

## § Section 1 Scope of application

- (1) These terms and conditions of business apply exclusively to companies, legal entities under public law or special funds under public law within the meaning of § 310 paragraph 1 BGB. We shall only recognize any terms and conditions of the customer which conflict with or deviate from our Terms and Conditions of Sale if we expressly agree to their validity in writing.
- (2) These Terms and Conditions of Sale shall also apply to all future transactions with the Customer, insofar as these are legal transactions of a related kind.
- (3) Individual agreements made with the purchaser in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these Terms of Sale. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.

## § 2 Offer and conclusion of contract

If an order is to be regarded as an offer in accordance with § 145 BGB, we can accept it within two weeks.

## § 3 Provided documents

We reserve the property rights and copyrights to all documents provided to the purchaser in connection with the placing of the order - including in electronic form - such as calculations, drawings, etc. These documents may not be made accessible to third parties unless we give the customer our express written consent. If we do not accept the offer of the customer within the period of § 2, these documents must be returned to us immediately.

## § 4 Prices and payment

- (1) Unless otherwise agreed in writing, our prices are ex works excluding packaging and shipping, plus value added tax at the applicable rate.
- (2) Payment of the purchase price must be made exclusively to the account named overleaf. The deduction of a discount is only permissible if specifically agreed in writing.
- (3) Unless otherwise agreed, the purchase price shall be paid within 14 days after delivery. Any interest on arrears shall be charged at a rate of 8% above the respective base interest rate p.a. We reserve the right to assert a higher damage caused by default.
- (4) Unless a fixed price agreement has been made, we reserve the right to make reasonable price changes due to changes in wage, material and distribution costs for deliveries that take place 3 months or later after conclusion of the contract.

## § 5 Rights of Retention

The customer is only entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

## **§ 6 Delivery time**

(1) The beginning of the delivery time stated by us is subject to the timely and proper fulfilment of the obligations of the purchaser. We reserve the right to raise the defense of non-performance of the contract.

(2) If the customer is in default of acceptance or if he culpably violates other obligations to cooperate, we are entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We reserve the right to make further claims. Insofar as the above conditions are met, the risk of accidental loss or accidental deterioration of the purchased item shall pass to the customer at the point in time at which the customer is in default of acceptance or debtor's delay.

(3) Further legal claims and rights of the customer due to a delay in delivery remain unaffected.

## **§ 7 Transfer of risk on dispatch**

If the goods are shipped to the customer at the latter's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer upon dispatch to the customer, at the latest upon leaving the factory/warehouse. This applies regardless of whether the goods are dispatched from the place of performance or who bears the freight costs.

## **§ 8 Retention of title**

- (1) We reserve the right of ownership of the delivered item until all claims arising from the delivery contract have been paid in full. This also applies to all future deliveries, even if we do not always expressly refer to this. We shall be entitled to take back the object of sale if the customer acts in breach of contract.
- (2) The customer is obliged to inform the third party that the object is not his property. As long as the ownership has not yet been transferred to him, the purchaser is obliged to treat the object of purchase with care. As long as the ownership has not yet been transferred, the purchaser must inform us immediately in writing if the delivered item is seized or exposed to other interventions by third parties. Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of a lawsuit in accordance with § 771 ZPO (German Code of Civil Procedure), the customer shall be liable for the loss incurred by us.
- (3) The treatment, processing or transformation of the object of sale by the customer shall always be carried out in our name and on our behalf. In this case, the expectant right of the customer to the object of purchase shall continue in the transformed object. If the purchased item is processed with other objects not belonging to us, we shall acquire co-ownership of the new item in the ratio of the objective value of our purchased item to the other processed objects at the time of processing. The same applies in the event of mixing. If the mixing is carried out in such a way that the customer's item is to be regarded as the main item, it is deemed to be agreed that the customer shall transfer proportional co-ownership to us and shall keep the sole ownership or co-ownership thus created for us. In order to secure our claims against the customer, the customer also assigns to us such claims which accrue to him against a third party through the connection of the reserved goods with a property; we hereby accept this assignment.

## § 9 Warranty and notice of defects as well as recourse/manufacture's recourse

- (1) Warranty rights of the purchaser require that he has properly fulfilled his obligations to inspect the goods and give notice of defects in accordance with § 377 HGB (German Commercial Code).
- (2) Claims for defects shall become statute-barred 24 months after delivery of the goods delivered by us to our customer. The statutory period of limitation shall apply to claims for damages in cases of intent and gross negligence as well as in cases of injury to life, body and health which are based on an intentional or negligent breach of duty by the user.  
Our consent must be obtained before any return of the goods.
- (3) If, despite all the care taken, the delivered goods show a defect that was already present at the time of the transfer of risk, we shall, subject to timely notification of defects, either repair the goods or deliver replacement goods at our discretion. We shall always be given the opportunity to remedy the defect up to two attempts at repair within a reasonable period of time. Recourse claims remain unaffected by the above provision without restriction.
- (4) If the subsequent performance fails, the customer may - without prejudice to any claims for damages - withdraw from the contract or reduce the remuneration.
- (5) Claims for defects do not exist in the case of only insignificant deviation from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear or wear and tear as well as in the case of damage which occurs after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials or due to special external influences which are not provided for under the contract. If improper installation work or modifications are carried out by the customer or third parties, no claims for defects shall exist for these and the consequences thereof.
- (6) Claims of the purchaser for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labor and material costs, are excluded if the expenses increase because the goods delivered by us have subsequently been taken to a place other than the purchaser's branch office, unless the transfer corresponds to their intended use.
- (7) Recourse claims of the purchaser against us shall only exist insofar as the purchaser has not made any agreements with his customer that go beyond the mandatory statutory claims for defects. Furthermore, paragraph 6 shall apply accordingly to the scope of the customer's right of recourse against the supplier.

## § 10 Miscellaneous

- (1) This contract and the entire legal relations between the parties shall be governed by the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- (2) Place of performance and exclusive place of jurisdiction and for all disputes arising from this contract is our place of business, unless otherwise stated in the order confirmation.
- (3) All agreements made between the parties for the purpose of executing this contract are set out in writing in this contract.