

General Terms and Conditions of Business and Supply (*Allgemeine Geschäfts- und Lieferbedingungen*, abbreviated “AGB”)

AXRO Bürokommunikation Distribution Import Export GmbH

§ 1 Scope of application; definitions

- 1.1 These Terms and Conditions apply to all orders placed with AXRO Bürokommunikation Distribution Import Export GmbH, Schnackenburgallee 183 – 201, 22525 Hamburg, Germany (hereinafter “AXRO”). This applies even if AXRO performs its services without reservation although it is aware of terms and conditions of the customer that conflict with or vary from these Terms and Conditions. In the event of a conflict as to individual portions hereof, the entire agreement is deemed not to have been entered into (§ 139 Bürgerliches Gesetzbuch (German Civil Code, BGB)).
- 1.2 “Entrepreneur” means any natural or legal person, or a private partnership with legal rights, that enters into a legal transaction in the exercise of its commercial or independent professional activity. “Consumer” means any natural person who enters into a legal transaction for a purpose that is attributable neither to commercial activities, nor to an independent professional activity, engaged in by that person. The characteristics of being a business entity (*Kaufmann*) within the meaning of these provisions follow the definition in the Handelsgesetzbuch (German Commercial Code, HGB).
- 1.3 In the course of AXRO’s business with entrepreneurs, these Terms and Conditions will be applied to the ongoing business relationship upon registration with AXRO, and no later than upon placement of the first order.
- 1.4 The customer is obligated to furnish AXRO with proof of its capacity as an entrepreneur prior to placement of the first order, and otherwise upon request, by presenting a valid trade license (*Gewerbeschein*).

§ 2 Offers; entry into the agreement

- 2.1 All representations of the products offered by AXRO, particularly including the information presented in brochures, catalogs, advertisements, and other advertising documents, and on the Internet, etc., as well as pictorial representations, colors, samples of goods, and descriptions in offers, sample books, price lists, and other documents are to be understood as approximate only. These items have been compiled to the best of our knowledge, but do not represent a binding offer. An order placed by the customer with AXRO, irrespective of the form in which placed (telephone, Internet, in writing, etc.), constitutes a binding offer to AXRO to enter into an agreement. The customer is required to honor such offer for a period of 14 days after receipt by AXRO. Within such time span, AXRO may state its acceptance of the offer. As a basic principle, such acceptance takes place by way of sending of a written acceptance confirmation notice, and in isolated cases by way of sending of the goods. This also applies to addenda or amendments to the order. The control e-mail that is automatically sent electronically following placement of an order via the Internet does not constitute acceptance of an agreement for the purposes of this provision.

- 2.2 Should it transpire in an isolated instance that the statement of acceptance, or the delivery of the goods that has taken place without such confirmation, does not take place until after a period of two weeks has elapsed, the confirmation or delivery of the goods constitutes a new offer to enter into an agreement. The customer may accept such offer tacitly, for instance by accepting and beginning to use the goods, or explicitly. In this regard, AXRO waives the requirement that a statement of acceptance must have been received (§ 151 BGB).
- 2.3 Should the offer be accepted by AXRO on changed terms and conditions, e.g., at a different price, for a different quantity, with regard to a modified product, or with similar variances, this statement of acceptance/delivery is to be considered an offer to enter into a new agreement (§ 150 II BGB). If the customer does not object to a modified confirmation within three days after receipt, the new offer is deemed to have been accepted unless AXRO could not have expected that the modified order would be accepted because it contains a substantial deviation from the original order.

§ 3 Prices and payment

- 3.1 Unless otherwise agreed, the prices are to be understood as net prices in euros. AXO shall supply the goods ex works (EXW). Taxes will be assessed in accordance with the provisions set forth below and pursuant to the statutory regulations. Costs of transportation and packaging are also not included in the prices.
- a) Customers from Germany are required to pay value-added tax at the statutory rate (currently 19% at the regular rate and 7% in certain exceptions) in addition to the net prices.
 - b) Customers from Member States of the European Union to which the regulations on intra-community purchases (EU single market) apply are, pursuant to the “destination country” principle, required to pay value-added tax in accordance with the national rules and regulations that apply in the destination country if and insofar as the sales transacted are taxable. For these kinds of orders, customers are required to provide a value-added tax identification number. If such number is not provided, or is not provided in due time, AXRO is entitled to charge value-added tax as per § 3 No. 3.1 (a) of these Terms and Conditions in order to avoid any detrimental effect. Solely the customer itself is responsible for the assessment and remittance of taxes in the destination country.
 - c) For orders that lead to exports to “third countries,” the general exemption from value-added tax pursuant to § 4 No. 1 (a) Umsatzsteuergesetz (German Value-added Tax Act, UStG) applies. Solely the customer itself is responsible for the assessment and remittance of taxes on goods imported into the destination country. Any customs duties, other import duties, costs of inspection, or other costs incurred for sending the goods (e.g., for the preparation of customs and/or shipping documents) must likewise be paid by the customer.
 - d) For orders that are billed as shipments to foreign countries (cf. letters (b) and (c) above), the destination location must also be abroad. No goods will be sent under such orders to destinations within the Federal Republic of Germany.

- 3.2 Unless otherwise agreed, the customer is required to pay in advance, by way of funds transfer, for the goods purchased. When goods are purchased, the purchase price for the goods and the shipment thereof will fall due immediately after the agreement has been entered into if there is any doubt.
- 3.3 If AXRO accepts checks or bills of exchange in payment, it does so solely against future clearance thereof. Any costs incurred as a result of such acceptance shall be borne exclusively by the customer.
- 3.4 If and insofar as AXRO should grant, in an isolated case, payment terms, such action does not constitute deferment, but is nonetheless binding. In the event that the customer fails to render payment as per the payment terms, default interest in the amount of eight percentage points above the then-applicable base interest rate set by the European Central Bank (ECB) p.a. shall fall due as from the following day.
- 3.5 The customer is not entitled to offset counterclaims of its own against claims of AXRO except where its own claims have been established in a final, binding legal judgment or have been acknowledged by AXRO. Exercise of rights to withhold payment is, subject to corresponding requirements, additionally permitted only with regard to counterclaims that directly result from the same contractual relationship.
- 3.6 If multiple receivables vis-à-vis the customer are pending, and if the customer's payment is insufficient to discharge all receivables, payment will be applied in the sequence established by § 366 Para. 2 BGB. Any provisions on application of payment that vary therefrom and are set forth by the customer will have no legal effect.

§ 4 Delivery

- 4.1 Delivery shall be made to the delivery address indicated by the customer. The risk of accidental loss or deterioration of the objects of purchase shall pass to the customer upon delivery of the item to the shipper or another person specified for the shipment thereof (§ 447 BGB). By turning over the ordered goods to the shipper or such other person specified for the shipment thereof, AXRO shall be released from its obligation of performance.
- 4.2 AXRO is entitled to make partial deliveries provided that such action is not unreasonable for the customer.
- 4.3 AXRO will endeavor to deliver the goods as soon as possible. Delivery deadlines or time limits that have been mentioned are, as a basic principle, subject to on-time and sufficient delivery of supplies to AXRO itself. Unless an individual agreement has demonstrably been entered into and takes priority over these provisions, only delivery time limits that have been agreed upon in writing are considered binding in the event of any doubt. An agreed delivery time limit shall commence as of the date of receipt of the order confirmation. It shall be deemed to have been complied with if the shipment is ready for shipping within the time limit and the customer is notified thereof. As a basic principle, compliance with a delivery deadline requires that the customer must have fulfilled its contractual obligations.
- 4.4 If non-compliance with, or a delay in, an agreed delivery time limit is due to events of *force majeure*, labor disputes, fire, unforeseen impediments, or other obstacles for which AXRO is not responsible, the delivery time limit shall be extended by the duration of such events. In

the event that AXRO is in default of delivery at the time at which such events occur, the foregoing provision shall apply accordingly. In important cases, AXRO shall notify the customer as soon as possible of the time at which such obstacles commence and end.

- 4.5 If the customer sustains damage or losses during a delay that has occurred as a result of a fault on AXRO's part, the customer is entitled, to the exclusion of further claims, to demand compensation for the delay. Such compensation amounts to 0.5% of the value of that portion of the overall delivery that cannot be used on time or as agreed as a result of the delay, per full week by which the delay persists, not to exceed 5% of such value. AXRO reserves the right to prove that the damage or loss actually sustained by the customer has been lower in amount than the sum thus claimed. Violations of obligations on the part of the customer itself may have to be taken into account with the effect of reducing the amount of such compensation.
- 4.6 If the shipment is delayed due to circumstances for which the customer is responsible, the risk shall pass to the customer as from the date on which the shipment is ready for shipping. At the customer's request and expense, AXRO shall take out insurance as requested by the customer.
- 4.7 If the shipment is delayed at the customer's request, the customer shall be billed, beginning one month after notice of readiness for shipment has been issued, for the costs arising as a result of the storage of the goods, in an amount of not less than 1% of the invoiced amount, for each month by which such situation persists. AXRO is entitled to establish an appropriate time limit and, if such time limit elapses without the situation being remedied, entitled to put the object of delivery to other use and to supply the customer with goods after the end of the delay with an adequate lead time.
- 4.8 If the customer falls in default of acceptance of the goods, AXRO is entitled to claim the damage or loss arising as a result thereof. The customer reserves the right to prove that the damage or loss actually sustained by AXRO has been lower in amount than the sum thus claimed.
- 4.9 The customer is required to inspect the goods for quality and quantity without delay following delivery. The customer must complain of any evident defects without delay following delivery of the goods, and of any concealed defects without delay following discovery thereof or following the objective possibility of discovery. Nothing herein shall affect the applicability of § 377 HGB.
- 4.10 It is possible, upon arrangement to that effect, for goods to be delivered directly to customers of the customer. If and insofar as such customers are consumers, they are deemed, within the contractual relationship between AXRO and the customer, to likewise constitute representatives of the entrepreneur who are authorized to accept shipments on the entrepreneur's behalf; in particular, they are under the same obligations to submit complaints pursuant to § 7.4 as apply to the entrepreneur; nothing herein shall affect the consumer's rights vis-à-vis its respective contractual partner.

§ 5 Retention of title

- 5.1 AXRO reserves title to the goods until such time as all payments under the business relationship with the customer have been received; this reservation refers to the

acknowledged balance of accounts. In the event of breach of contract on the customer's part, particularly in the event of default in payment, AXRO is entitled to take back the object of purchase. Unless AXRO expressly states otherwise, such retraction of the goods does not constitute rescission of the agreement. In such a case, AXRO is entitled to supply a different object to the customer after the full payment has been received within an appropriate time limit. In the event of rescission, AXRO is permitted to dispose of the goods subject to retention of title. The proceeds of such disposal shall be applied toward the customer's obligations, less appropriate processing costs. Nothing herein shall affect the statutory ownership rights as set forth in §§ 946 et seq. BGB.

- 5.2 With regard to the goods subject to retention of title, the customer is obligated to keep the goods in proper condition and treat them with care for the duration of the retention of title. During the term for which retention of title applies, the customer is obligated to store the goods subject to such retention properly and to insure them appropriately. The customer assigns, already at this time, all further claims to which it is entitled with regard to the goods subject to retention of title (e.g., tort claims, insurance claims) to AXRO up to the amount of the invoiced value of the goods subject to retention of title; AXRO accepts such assignment already at this time.
- 5.3 If third parties have recourse to the goods subject to retention of title, particularly, for instance, in the form of distraint or seizure, the customer is required to inform such third parties of the rights of AXRO and to notify AXRO without delay so that AXRO can assert a claim pursuant to § 771 Zivilprozessordnung (German Code of Civil Procedure, ZPO). The customer is liable for all costs arising as a result thereof, including court and out-of-court costs for a complaint pursuant to § 771 ZPO, if reimbursement therefor cannot be obtained from the third party in question.
- 5.4 The customer is authorized to resell the goods subject to retention of title in the ordinary course of business. This authorization to resell the goods subject to retention of title is granted only provided that the retention of title is also passed along. It is expressly stated that the authorization does not apply to transfers of the goods by way of security or to pledging thereof.
- 5.5 In the event that the customer, when reselling the goods, fails to pass along the retention of title, the customer assigns all of the customer's claims on the purchaser or third parties as a result of the resale, up to the amount of the invoiced sum, to AXRO already at this time, and AXRO accepts such assignment already at this time. This advance assignment applies irrespective of whether the resale has taken place without or following any processing of the goods. The same applies to corresponding balance receivables arising under a current account if the customer has agreed upon such an account with its customer. AXRO agrees not to collect on such receivables as long as the customer is in compliance with its payment obligations, does not fall in default of payment, no petition has been filed for institution of insolvency proceedings, and the customer has not suspended payments. If, however, any one of those events should occur, AXRO is entitled to demand that the customer identify to AXRO the receivables assigned and the debtors therefor, provide all information necessary for the collection thereof, turn over the associated documents, and disclose the assignment to the debtors (third parties).
- 5.6 Any processing or modification of the goods subject to retention of title is always deemed to take place for and on behalf of AXRO. If the goods subject to retention of title, or any portion thereof, are inseparably combined or mixed with objects that are not the property of AXRO,

AXRO shall receive co-ownership of the new object at a rate proportional to the ratio of the value of the goods subject to retention of title that have been combined or mixed therein to the value of the overall object.

- 5.7 AXRO agrees to release the items of security to which it is entitled at the customer's request, if and insofar as the collectable value of our items of security exceeds the claims for which security is to be provided by more than 10% over a sustained period. AXRO is entitled to select which items of security to release.

§ 6 Claims for defects

- 6.1 If a product is already defective upon delivery thereof (event bringing the warranty into operation), AXRO shall, at the buyer's option, initially replace such product at its own expense with an equivalent product, or have such product professionally repaired (§ 439 BGB). If the statutory prerequisites are met, the customer has the further rights set forth in § 437 Nos. 1 – 3 BGB, subject to the limitation of liability pursuant to § 13 hereof.

An event bringing the warranty into operation is not considered to have taken place in the following cases in particular:

- in the case of damage caused by the customer through misuse or improper use of the goods, unless such damage is based on defective assembly and/or installation instructions,
- in the case of damage that occurs as a result of the products having been exposed to detrimental environmental influences at the premises of the customer (in particular, extreme temperatures, moisture, extraordinary physical or electrical strain, voltage fluctuations, lightning strike, static electricity, or fire). AXRO moreover furnishes no warranty for any fault or error that arises through improper repairs performed by a service partner not authorized by the manufacturer.

- 6.2 If it should transpire, during the inspection of the product, that the complaint regarding the defect is obviously unfounded, the customer is required to indemnify AXRO for the expenses incurred thereby in the amount of a lump sum of € 40.00; both Contracting Parties reserve the right to prove that the actual amount of damage or loss sustained in the individual case at hand is either lower or higher than such lump sum. Should an event bringing the warranty into operation indeed have taken place, AXRO shall reimburse the customer for the shipping costs the customer has expended, immediately after curing the problem (§ 439 II BGB).

- 6.3 If the customer returns the goods in order to obtain a replacement product, the return of the defective product is subject to the following provision:

If and insofar as the customer was able to use the goods in a condition free of defects during the period between the delivery and the return thereof, the customer must remit payment for the value of the use derived by the customer from the goods. For every month or portion thereof during which the customer had the use of the goods, a lump-sum use fee in the amount of 10% of the purchase price, or of the value of the replaced goods, as the case may be, shall fall due for payment; the customer reserves the right to prove that the actual amount of compensation due for its use of the goods is lower than the aforementioned sum.

- 6.4 Rescission of the agreement is possible only in the event of a defect that is not insubstantial (§ 323 V BGB). Claims for damages shall exist only pursuant to § 9 of these Terms and Conditions (§ 475 III BGB). Complaints regarding portions of the goods provided do not, on general principle, give rise to an entitlement to reject the rest of the delivery unless the customer can no longer reasonably be expected to abide by the agreement.
- 6.5 Furthermore, for products delivered within the Federal Republic of Germany, there may also be claims against the manufacturer within the scope of a (contractual) warranty, if any, granted by the latter; in such a case, such claims shall be governed by the corresponding warranty terms and conditions.

§ 7 Lapse of claims

- 7.1 In the course of business with entrepreneurs, the warranty period for used and new objects is one year as from the transfer of risk associated therewith. This does not apply to claims for damages that arise due to gross negligence or wrongful intent.
- 7.2 In the course of business with entrepreneurs, the limit period for lapse of claims shall commence upon the provision or transfer of the goods to the shipper. The limit period for lapse of claims pursuant to § 7.1 shall not be extended by a warranty, if any, granted by the manufacturer. The customer bears the full burden of proof for all prerequisites applicable to its claims, particularly the burden of proving the existence of the defect itself, the time of detection of the defect, and the timely submission of a complaint regarding such defect.

§ 8 Liability

- 8.1 AXRO is liable for violations of obligations committed through gross negligence or wrongful intent, as well as for bodily injury caused through ordinary negligence. In the course of business with entrepreneurs, the liability of AXRO is limited in the case of non-intentional actions to the direct damage or loss typically foreseeable at the time at which the agreement was entered into.
- 8.2 In the case of ordinary negligence, AXRO is liable only in the case of violation of essential contractual obligations, and its liability is limited to the damage or loss foreseeable at the time at which the agreement was entered into. This limitation does not apply in the case of loss of life, bodily injury, or impairment of health. AXRO is not liable for other damage or losses caused by a defect in the object of purchase through ordinary negligence. Nothing herein shall affect AXRO's liability, if any, for precontractual faults (*culpa in contrahendo*) or pursuant to the Produkthaftungsgesetz (German Product Liability Act).
- 8.3 Irrespective of fault on the part of AXRO, nothing herein shall affect AXRO's liability, if any, for malicious concealment of a defect or based on having provided a warranty (§ 444 BGB) or representation. The manufacturer's warranty is a warranty from the manufacturer and does not constitute a warranty provided by AXRO.
- 8.4 AXRO is also responsible for any impossibility of delivery that may occur by chance during its default, unless the damage or loss would also have been incurred if the delivery had been made on time.

8.5 If and insofar as AXRO's liability is precluded or limited, such also applies to the liability of the statutory representatives of AXRO and to its agents in performance of its contractual obligations (*Erfüllungsgehilfen*).

§ 9 Use of data; data protection statement

With regard to the privacy policy, please refer to the following page:
<http://www.axro.de/GB/en/privacy.php>

§ 10 Access information for the online shop / nondisclosure

- 10.1 AXRO grants access to its online shop, in accordance with these Terms and Conditions and the terms of use contained herein, for an unlimited period. AXRO reserves the right to block access to the online shop, effective immediately, upon the termination of the business relationship, or upon any violation of these terms and conditions, misuse, or for other good cause.
- 10.2 The access information for the online shop is intended only for the personal use of the authorized person(s) registered by the customer. The access information and the associated password must be kept strictly confidential and must not be disclosed to third parties. Use or disclosure of the access information for or to external price search software or similar software tools is prohibited. The customer is required to ensure that its agents and contractors also comply with this obligation to maintain confidentiality. Without AXRO's express consent, the customer and its agents are not entitled to disclose to third parties outside of the company any information on prices, availability, etc., that is obtained from the electronic systems or from the Web services of AXRO or is saved from there. Likewise, the customer is not entitled, without consent, to save the data received to any computer other than the customer's own computers.
- 10.3 The customer agrees that after an employee who has been granted access to the protected AXRO online shop area has left the company, the customer will have that employee's access deleted without delay or have a password that was used previously changed.
- 10.4 The customer is liable for any and all misuse (including through only ordinary negligence) of its online shop access or the access of the employees commissioned by it. The customer bears the burden of proving that it is not responsible for unauthorized access and that it has taken all necessary security measures to preclude misuse.

§ 11 Final provisions

- 11.1 The place of jurisdiction for any and all present and future claims arising from the business relationship with commercial entities, legal entities existing under public law, or public-law special funds, including demands concerning bills of exchange and checks, is the location in which AXRO has its registered office. AXRO is also entitled to file suits against the customer in any other statutory place of jurisdiction.

- 11.2 In the course of business with enterprises, the joint place of performance for both Parties is the location in which AXRO has its registered office.
- 11.3 The language of the agreement is German.
- 11.4 The contractual relationships between the Parties are subject to German law. The applicability of the uniform laws on international purchases of movable property as well as on entry into international purchase agreements for movable property is expressly excluded, along with the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 11.5 Should any individual provision or provisions of the agreement with the customer, including these General Terms and Conditions of Business and Supply, be or become invalid in whole or in part, the validity of the remaining provisions shall be unaffected by such circumstance.

Hamburg, February 2012