

1. General

- 1.1 The scope and contents of a contract between actiro and the orderer result from these general terms and conditions and other agreements such as a quote and/or order confirmation. Deviations from this or subsequent changes or additions to it must be made in writing to be effective, as must delivery contracts (orders and order confirmations). Terms of business, terms and conditions of delivery and payment and/or terms and conditions of purchase originating from the orderer that deviate from these general terms and conditions are only valid if confirmed in writing by actiro. This also applies if actiro carries out the delivery to the orderer without objection in the knowledge that the customer's terms and conditions conflict with or deviate from these terms and conditions of delivery and payment.
- 1.2 Orders placed verbally by telephone or in any other way only become effective by way of order confirmation, unconditional delivery or express approval on the part of actiro. Acknowledgements by the orderer referring to their own terms and conditions of business or of purchase are hereby rejected.
- 1.3 Special requirements resulting from national regulations or customs of the destination country require a written contractual agreement. For the manufacture and testing of the object of purchase and for certification of the test results, the standards of the Federal Republic of Germany apply. Samples, drawings, descriptions, information in catalogs and brochures and the like are only binding if this has been expressly agreed in writing.
- 1.4 If the orderer does not accept our quote within two weeks of receipt, we are entitled to revoke it.
- 1.5 These terms and conditions shall also apply to all future deliveries to the orderer.

2. Prices

- 2.1 Agreed prices are ex works (Incoterms 2000) excluding packaging and plus VAT. VAT will be charged in all instances except where the conditions have been met for export shipments to be exempted from such tax.
- 2.2 Unless otherwise expressly agreed in writing, the list prices valid on the day of dispatch shall apply. Unless otherwise agreed in writing, the prices are stated in EURO. We reserve the right to change our prices appropriately if cost reductions or cost increases occur after conclusion of the contract, in particular due to changes in labor costs or changes in the cost of materials, raw materials or energy. We will provide evidence of these to the orderer upon request. The orderer shall only be entitled to withdraw from the contract if the price increase significantly exceeds the increase in the general cost of living between order and dispatch.
- 2.3 Replacement part deliveries and return of repaired goods, insofar as these are not covered by the liability for material defects, shall be made against payment of a reasonable flat-rate shipping and packaging charge in addition to the remuneration for the service rendered and/or goods delivered by us.

3. Delivery; times for delivery; delay

- 3.1 The start of and compliance with the agreed period for delivery shall be subject to the fulfillment of the obligations to cooperate, in particular the timely receipt of all provisions, drawings, documents, approvals, examinations and releases to be provided by the orderer and compliance with the agreed terms and conditions of payment by the orderer. If these conditions are not properly fulfilled in time, the agreed times for delivery shall be extended appropriately; this shall not apply if actiro is solely responsible for the delay.
- 3.2 If non-compliance with delivery deadlines is due to force majeure or other disruptions beyond our control

(e.g., war, terrorist attacks, import and export restrictions, labor disputes including those affecting our suppliers), the agreed times for delivery shall be extended accordingly.

- 3.3 The time for delivery shall be deemed to have been met if the orderer has been notified of readiness for dispatch or if the delivery item has left the works by the time the delivery deadline passes; the date of receipt by the orderer shall not be relevant in this regard.
- 3.4 If our delivery is delayed, the orderer must declare at our request within a reasonable period of time whether they will withdraw from the contract due to the delay in delivery and/or demand damages in lieu of performance or insist on delivery.
- 3.5 We shall be liable for claims for damages by the orderer due to delay in delivery only to the amount of 10% of the price of the items in the delivery. Further, Section 9 shall apply to these claims.
- 3.6 If dispatch or delivery is delayed at the request of the orderer by more than one month after notification of readiness for dispatch, the orderer may be charged storage costs of 0.5% of the price of the items in the delivery per month commenced, but in no case more than a total of 5% of the price of the items in the delivery. The contracting parties shall be free to prove that the storage costs were higher or lower. Further claims due to default of acceptance are unaffected.
- 3.7 Partial deliveries and corresponding settlements are permissible unless they are unreasonable for the orderer.

4. **Passing of risk**

- 4.1 Delivery shall be ex works (Incoterms 2000), unless expressly agreed otherwise. The risk in all deliveries shall pass to the orderer upon handover to the carrier. If the orderer has already declared that they will not accept the delivery item before we hand it over to the carrier, the risk of accidental loss or incidental deterioration of the delivery item shall pass to the orderer from the

time of the refusal.

- 4.2 Upon request and at the expense of the orderer, we will insure deliveries against the usual transport risks.

5. **Complaints and notices of defects**

- 5.1 The orderer is to notify us in writing of obvious defects immediately, or at the latest 10 days after receipt of the goods, stating the delivery note, the batch no., the article no. or the sample part. Notice of other material defects shall be given by the orderer in writing immediately upon discovery. The date of our receipt of the notice shall be decisive in each case. §§ 377, 378 German Commercial Code (HGB) shall apply.
- 5.2 In the case of notices of defects, payments by the orderer may only be withheld to an extent that is in reasonable proportion to the material defects that have occurred and only until proper fulfilment by actiro. If a notice of defect is unjustified, we shall be entitled to demand reimbursement for the expenses we have incurred by the orderer.
- 5.3 Claims for material defects are excluded if the material defect is not reported in time.

6. **Receipt**

The orderer may not refuse to accept deliveries due to insignificant defects.

7. **Material defects and defects of title**

- 7.1 Claims for material defects are time-barred after 12 months as agreed.
- 7.2 The limitation period for material defects begins with the delivery of the goods (passing of risk).
- 7.3 In the event of a material defect within the limitation period, the cause of which already existed at the time of the passing of risk, we may, at our discretion, remedy the defect or deliver defect-free goods as supplementary performance.
- 7.4 Supplementary performance shall not cause the limitation period to begin again.
- 7.5 If the supplementary performance fails,

the orderer may – irrespective of any claims for damages – withdraw from the contract or reduce the remuneration.

7.6 The orderer shall have no claim with respect to expenses incurred in the course of supplementary performance, including transport, infrastructure, labor and material cost, to the extent that such expenses increase because the delivered items have subsequently been transported to a location other than the orderer's branch office, unless doing so complies with the normal use of the items.

7.7 Claims for material defects shall not be honored in the case of only insignificant deviation from the agreed quality or only insignificant impairment of usability.

7.8 These are not regarded as material defects:

- Natural wear and tear;
- Condition of the items or damage occurring after the passing of risk as a result of improper handling, storage or installation, non-compliance with installation and handling instructions or excessive stress or use;
- Quality of the goods or damage caused by force majeure, special external influences not provided for in the contract or the use of the items outside the scope of their intended or customary use under the contract;
- Non-reproducible software errors.

Claims for material defects shall not be honored if the items are modified by third parties or by the installation of parts of third-party origin, unless the defect is not causally related to the modification.

We shall not be liable for the quality of the goods due to the design or the choice of material, provided that the orderer has prescribed the design or the material.

7.9 The orderer's right of recourse against us shall exist only to the extent that the orderer has not entered into any agreements with their customers

exceeding the statutory claims for defects, e.g., goodwill agreements.

7.10 Claims based on material defects, including claims under a right of recourse by the orderer, shall be excluded if the orderer has remedied the defect or has had it remedied by a third party.

7.11 Our obligation to pay damages and reimburse futile expenses within the meaning of § 284 German Civil Code (BGB) due to material defects shall otherwise be governed by Section 9. Further claims or claims by the orderer other than those regulated in this Section 7 based on material defects shall be excluded.

7.12 The provisions of this Section 7 shall apply mutatis mutandis to defects of title that are not based on the infringement of third-party property rights.

8. Property rights and copyrights

8.1 We shall not be liable for claims arising from the infringement of industrial property rights or copyrights (hereinafter: property rights) if the property right is or was owned by the orderer or by a company in which the orderer directly or indirectly holds or held a majority of the capital or voting rights.

8.2 We shall not be liable for claims arising from the infringement of property rights unless at least one property right from the family of property rights has been published either by the European Patent Office or in the Federal Republic of Germany.

8.3 The orderer shall inform us without delay of any (alleged) infringements of property rights of which they become aware or of any risks in this respect and, upon request, shall – to the extent possible – leave the conduct of legal disputes (including extrajudicial) to us.

8.4 At our discretion, we shall be entitled to obtain a right of use for the item infringing a property right, to modify the item in such a way that it no longer infringes the property right or to replace it with a similar item that no

longer infringes the property right. If this is not possible for us under reasonable conditions or within a reasonable period of time, the orderer shall be entitled to the statutory rights of withdrawal – provided that they have enabled us to make a modification. We shall also be entitled to withdraw under the aforementioned conditions. The provision of Section 7.9 shall apply accordingly. We reserve the right to take the measures at our disposal pursuant to this same Section 8.4, Sentence 1, even if the infringement of property rights has not yet been legally established or acknowledged by us.

- 8.5 Claims by the orderer are excluded when the orderer is responsible for the infringement of property rights or does not support us to a reasonable extent in the defense against claims by third parties.
- 8.6 Claims by the orderer shall also be excluded if the items are manufactured in accordance with the orderer's specifications or instructions, if the (alleged) infringement of the property right results from using the item in combination with another object not originating from us or if the items are used in a manner that we could not foresee.
- 8.7 Our obligation to pay damages in the event of infringement of property rights shall otherwise be governed by Section 9.
- 8.8 Sections 7.1 and 7.2 shall apply mutatis mutandis to the limitation of claims based on infringements of property rights.
- 8.9 Further claims or claims by the orderer other than those regulated in this Section 8 regarding infringement of third-party property rights shall be excluded.

9. Claims for damages

Unless otherwise stipulated in these terms and conditions, we shall be liable for damages and reimbursement of futile expenses (hereinafter: "damages") within the meaning of §

284 German Civil Code (BGB) due to breach of contractual or non-contractual obligations only in the event of intent or gross negligence on the part of our legal representatives or vicarious agents; in the event of injury to life, body or health; due to the assumption of a guarantee or a procurement risk; due to the breach of essential contractual obligations; or due to mandatory liability under the Product Liability Act or other mandatory liability. However, damages for breach of material contractual obligations shall be limited to the foreseeable damage typical for the contract, unless caused by intent or gross negligence by our legal representatives or vicarious agents or based on liability for injury to life, body or health, giving of a guarantee or the assumption of a procurement risk. A change in the burden of proof to the detriment of the orderer is not associated with the above provisions.

10. Retention of title

- 10.1 We retain the title to the delivered items until complete fulfillment of all claims to which we are entitled and which may still arise from the business relationship.
- 10.2 The orderer is entitled to process or combine our products within the scope of their proper business operations. We shall acquire co-ownership of the products resulting from such processing or combination to secure our claims referred to in Section 10.1, which the orderer hereby assigns to us. The orderer shall store the items subject to our co-ownership free of charge as an accessory contractual obligation. The percentage of our co-ownership share shall be determined by the ratio of the value of our product and the object created by the processing or combination at the time of the processing or combination.
- 10.3 The orderer shall be entitled to resell the items in the ordinary course of business against cash payment or subject to retention of title. The orderer

hereby assigns to us in full all claims to which they are entitled from the resale of our product, including ancillary rights, irrespective of whether our product has been further processed or not. The assigned claims serve as security for our claims according to Section 10.1. The orderer is entitled to collect the assigned claims. We may revoke the rights of the orderer under this Section 10.3 if the orderer fails to properly fulfill their contractual obligations toward us, in particular if they are in default of payment. These rights shall also expire without express revocation if the orderer suspends their payments for more than a merely temporary period.

- 10.4 At our request, the orderer shall inform us without delay to whom they have sold items owned or co-owned by us and what claims they are entitled to from the resale, as well as issue to us at their expense officially certified documents on the assignment of the claims.
- 10.5 The orderer shall not be entitled to dispose in any other way of the items to which we retain title or co-ownership or of the claims assigned to us. The orderer shall notify us without delay of any seizure or other legal impairment of the objects or claims belonging to us in whole or in part. If property to which we retain title or property pledged as security cannot be collected from a third party, the orderer shall bear all costs incurred for the rescission of the access of the third party to the property and to recover the property.
- 10.6 In the event of default in payment or any other culpable breach of material contractual obligations on the part of the orderer, we shall be entitled to demand the surrender of the items to which we retain title or that are pledged as security. If we make use of this right, this shall only constitute a withdrawal from the contract if we expressly declare so.
- 10.7 An application for the opening of insolvency proceedings entitles us to

withdraw from the contract and to demand the immediate return of the deliveries.

- 10.8 If the value of the securities established exceeds our total claims by more than 10% we shall release securities of our choice to the extent of the excess at the request of the orderer.

11. Confidentiality

- 11.1 All business or technical information originating from us (including features that can be derived from any objects or software handed over) and other knowledge and experience shall be kept confidential from third parties as long as and to the extent that they are not demonstrably public knowledge or have not been designated by us for resale by the orderer, and they may only be made available in the orderer's own enterprise to such persons who must necessarily be involved in their use and who are also obliged to maintain confidentiality; they shall remain our exclusive property. Such information may not be reproduced or used commercially without our prior written consent. At our request, all information originating from us (including any copies or records made, if applicable) and items provided on loan shall be returned to us immediately and in full or destroyed.
- 11.2 We reserve all rights to the information referred to in Section 11.1 (including copyrights and the right to apply for industrial property rights, such as patents, utility models, semiconductor protection, etc.).

12. Terms of payment

- 12.1 Unless otherwise agreed in writing, payment shall be made within 30 days of the invoice date without any deductions. However, we can also make delivery upon payment (e.g., by cash on delivery or bank direct debit) or dependent on an advance payment. Invoicing takes place after the dispatch of the items.
- 12.2 We are entitled to offset payments against the oldest claim due.
- 12.3 The orderer is in default if they do not

pay in response to a reminder from actiro, which is sent after the purchase price is due. Irrespective of this, the orderer shall be in default if they fail to make payment by a contractually agreed calendar date. The statutory provision according to which the orderer is automatically in default 30 days after receipt of an invoice remains unaffected. From the first day of default, interest on arrears shall be payable at a rate of 8% above the base rate. actiro will charge the orderer €15.00 per reminder, charged for the first time when the second reminder is issued. The assertion of further damages is not excluded.

12.4 Payment by bill of exchange is only permissible after prior written agreement with us. Bills of exchange and checks shall only be accepted by us on account of performance and shall not be deemed payment until they have been cashed.

12.5 If the orderer is in default of payment, we shall be entitled to demand immediate cash payment of all due and undisputed claims arising from the business relationship. This right is not excluded by a deferral or the acceptance of bills of exchange or checks.

12.6 The orderer shall only be entitled to withhold payments or to set off payments against counterclaims to the extent that their counterclaims are undisputed or have been established as final and absolute.

12.7 actiro's claims against the orderer can be assigned and sold within the framework of corporate financing.

13 General provisions

13.1 The orderer's rights arising from transactions carried out with actiro may not be assigned.

13.2 Should any provision of these terms and conditions and the further agreements made be or become invalid, this shall not affect the validity of the remaining provisions. The contracting parties shall be obliged to replace the invalid provision with a

provision that comes as close as possible to the invalid provision in terms of economic effect.

13.3 actiro has the right – without granting a grace period – to withdraw from all purchase contracts with the orderer that actiro has not yet fulfilled, if a significant deterioration in the orderer's financial circumstances occurs, or if judicial or extrajudicial composition or insolvency proceedings are applied for or opened against them, or they fall into arrears with the payment of a purchase contract that actiro has already fulfilled. If actiro wishes to make use of this right of withdrawal, actiro must inform the orderer immediately.

13.4 The place of performance for deliveries – irrespective of the obligation to bear the cost of transport – shall be Suhl or the place of the distributing warehouse. The place of performance for payments is also Suhl.

13.5 The place of jurisdiction for all disputes arising from the contract shall be Suhl, if the orderer

- is a merchant,
- has no domestic place of jurisdiction,
- relocates their domicile or habitual residence outside Germany after conclusion of the contract or their domicile or habitual residence is not known at the time the action is brought.

We shall also be entitled to bring an action before a court having jurisdiction over the registered office or a branch of the orderer.

13.6 All legal relations between us and the orderer shall be governed exclusively by German law, excluding the conflict of laws rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).