

AMBION GmbH GTC for Sale, Renting and Service

**I. Scope**

- 1.) The following terms and conditions form the basis of and are an integral part of all contractual relationships and associated legal transactions between AMBION GmbH and its contractual partners that purchase goods and/or services provided by AMBION GmbH.
- 2.) In these GTC, the terms "Order", "Client" and "Contractor" are used in their ordinary commercial meanings. "Order" denotes the contractual relationship irrespective of the type of the contract, "Client" the party that shall receive the main service and shall pay the remuneration, "Contractor" the party that owes the main service.
- 3.) The placing of orders shall be based on an offer made by the Contractor. Offers by AMBION GmbH shall as a rule be subject to confirmation.
- 4.) Any order or change of an order shall be binding only if made in writing. Communication by telefax or email shall satisfy the requirement of written form.
- 5.) Any order or change of an order shall be confirmed to the Contractor in writing without delay. In case of communication by telefax or email, the original shall be delivered to AMBION GmbH by post without delay.
- 6.) Any deviating general terms and conditions of contractual partners shall be valid only if acknowledged in writing by AMBION GmbH.

**II. Delivery periods, deadlines, delay**

- 1.) Agreed deadlines and delivery periods shall be binding. The Contractor shall be informed forthwith of any delay in delivery that is feared to occur.
- 2.) The delivery dates confirmed by AMBION GmbH relate to the time of dispatch from the warehouse in Kassel, Hamburg and Berlin. They shall be deemed to have been adhered to if notice of readiness for dispatch is given in time if the goods cannot be shipped on schedule without fault on the part of AMBION GmbH. AMBION GmbH cannot be held responsible for delayed delivery or non-delivery caused by its upstream suppliers.
- 3.) Without prejudice to AMBION GmbH's rights resulting from default on the part of the Client, delivery periods and delivery dates shall be extended by the period of time which the Client is in default of its obligations to AMBION GmbH under this or any other contract.
- 4.) Should any delay in delivery occur as a result of a force majeure event, AMBION GmbH shall have the right to postpone delivery for the duration of the obstruction plus a reasonable lead time or to withdraw from the contract in whole or in part with respect to the part not yet performed. Any circumstance that substantially impedes delivery or makes it impossible shall be equivalent to a force majeure event, irrespective of whether the circumstance occurs at AMBION GmbH, the supply plant or a sub-supplier.

- 5.) Should AMBION GmbH be in default of delivery, the Client shall have the right to withdraw from the contract upon expiry of a reasonable deadline set by the Client, unless notice of readiness for dispatch of the goods has been given before the deadline has expired.

**III. Price setting, terms of payment terms, default of payment, passage of risk**

- 1.) All prices stated are valid ex warehouse Kassel, Hamburg, Frankfurt or Berlin, plus packaging and statutory value added tax. AMBION GmbH expressly reserves the right to change prices at short notice, e.g. due to a change in currency exchange rates.
- 2.) Payment claims shall fall due without deduction at the time the delivery or provision of a service is completed or at the time the goods are made available. Unless otherwise agreed, goods shall be paid for by cash-on-delivery without deduction of discounts.
- 3.) If AMBION GmbH accepts a bill of exchange or a cheque as payment, any and all costs incurred shall be charged to the Client. Payment shall be deemed made only after the bill of exchange has been answered or the cheque has been cashed in due time and all incidental charges have been paid.
- 4.) AMBION GmbH reserves the right to demand advance payment by the Client. This shall require a separate written agreement.
- 5.) Goods shall as a rule be shipped for the account and at the risk of the Client. The Client shall bear the risk also if carriage paid delivery is agreed.
- 6.) Set-off by the Client against counter-claims disputed by AMBION GmbH shall not be permissible. The Client shall have a right of retention only to the extent it is based on the same contractual relationship.
- 7.) At its option, AMBION GmbH will set off incoming payments against unpaid liabilities of the Client. Discounts may not be deducted while there are any arrears of payment.
- 8.) Should the Client be in arrears with payments, AMBION GmbH shall have the right to withdraw from the contract and to demand damages. Such damages shall be 15% of the price agreed in the contract, provided that the goods are in perfect condition. AMBION GmbH reserves the right to claim damages for any loss incurred that is higher. Conversely, the Client shall be free to prove that a lesser loss has been incurred.
- 9.) AMBION GmbH shall have the right to demand interest, for the duration of the default, at the respective average rates charged by banks for open credits.
- 10.) For hire purchases or instalment purchase transactions, AMBION GmbH and the Client shall make separate written agreements.

#### IV. Purchase

##### 1.) Warranty

Liability on the part of AMBION GmbH shall be excluded where the upstream supplier gives the buyer a warranty. The point in time decisive for the condition of the goods in accordance with the contract shall be the time of handover to the forwarder or carrier, however, at the latest, the time at which the goods leave the warehouse. Notice of defects shall be given in writing forthwith upon detection, in which case any processing and/or use shall be stopped immediately. Should the buyer fail to give notice of an obvious defect within three days of receipt of the goods at the place of destination, any liability on the part of AMBION GmbH shall be excluded. Any justified notice of defects shall not give rise to a warranty obligation on the part of AMBION GmbH while the buyer is failing to meet its payment obligations. In case of a justified notice of defects, AMBION GmbH shall be entitled to take the goods back and to supply fault-free goods instead or to make subsequent improvement or to provide compensation for the reduced value. Any claims for defects of the buyer shall cease to exist if the buyer fails to forthwith give AMBION GmbH the opportunity to convince itself of the defect and, in particular, fails to make the rejected goods available to AMBION GmbH without delay upon request. No warranty whatsoever can be claimed for goods sold as outclassed materials. All further claims shall be excluded. This shall apply in particular to claims for compensation for damage that has not occurred to the rejected goods themselves. The above provisions shall apply also to goods supplied not in accordance with the Order.

##### 2.) Retention of title

The goods supplied shall remain the property of AMBION GmbH until full payment of all claims, irrespective of their legal basis, including claims arising in the future and claims under Orders placed simultaneously or at a later time (goods subject to retention of title). This shall apply also where payments are made towards specified claims. If the goods subject to retention of title are processed, AMBION GmbH shall acquire co-ownership of the newly created items. If AMBION GmbH's ownership ceases to exist due to mixing, combination or processing, the buyer already now transfers title to the new items to AMBION GmbH in the amount of all existing claims. The co-ownership rights arising according to the above shall be deemed goods subject to retention of title within the meaning of this subparagraph. The buyer may resell the goods subject to retention of title only in the ordinary course of business and only while it is not in default. The buyer shall not be entitled to dispose of such goods in any other way. The buyer already now assigns to AMBION GmbH its claims to the proceeds from the goods subject to retention of title. Such proceeds shall serve as security to the same extent as the goods subject to retention of title themselves. The buyer shall be entitled to assign to any third party the claims to the proceeds from the goods subject to retention of title only with the prior written consent of AMBION GmbH.

Should AMBION GmbH make use of its retention of title, this shall be deemed withdrawal from the contract only if expressly declared by AMBION GmbH in writing. The buyer's right to possession of the goods subject to retention of title shall cease to exist if it fails to fulfil its obligations under this or any other contract. The buyer shall inform AMBION GmbH without delay of any seizure or other impairment of the goods by a third party. Should the value of the existing security exceed the total claim of AMBION GmbH against the buyer by more than 20%, AMBION GmbH shall be obliged to release securities at its option at the buyer's request.

#### V. Renting

##### 1.) Rental term

The rental term is calculated by days and weeks. The minimum rental term is one day. Partial days shall be counted as full days. The rental term shall commence at the time of delivery or collection ex AMBION GmbH's warehouses in Kassel, Hamburg, Frankfurt or Berlin and shall end at the time of return agreed in the Order. Should return of the rental object by the hirer be delayed beyond the time agreed in the Order, AMBION GmbH shall appropriately recalculate the rental fee.

##### 2.) Use of the rental object

The hirer shall be obliged to insure the rental object against loss and damage. The rental object shall be used with care. All obligations associated with the possession, use and receipt of the rental object shall be observed. In particular, the rental company's instructions for servicing, care and use shall be followed. Subletting of the rental object shall require the prior written consent of the rental company. Unless anything to the contrary is agreed in writing, the hirer shall keep the equipment in their immediate possession and shall use it only at the agreed places of use. The hirer shall allow the rental company to inspect the rental object at any time. The rental company reserves the right to exchange individual rental objects during the rental term without impairing the contractually assumed use and to replace them with equivalent objects.

##### 3.) Lessee's liability

The hirer shall be liable to AMBION GmbH for damage to the rental object caused to the rental object and accessories by it or a third party during the rental term. The risk of accidental destruction and accidental damage shall be borne by the hirer. In case of total loss, the hirer shall pay the replacement value of the rental object. This shall apply regardless of whether or not the hirer is responsible for the total loss.

4.) Rental company's liability

AMBION GmbH shall be liable for the fully functional condition of the rental object only at the time of passage of the risk. Any liability on the part of AMBION GmbH for damage to property and injury to persons which may arise from use of the rental object is excluded. The hirer shall be obliged to assist in the event of any impairment of performance that occurs and to minimise possible damage. In particular, it shall be obliged to notify AMBION GmbH of any defects of the rental object without undue delay after detection. In such a case, AMBION GmbH shall be given the opportunity to remedy the defect of the rental object or to exchange it for a different, equivalent rental object. Should the hirer be responsible for non-notification of a defect or culpably fail to give notice, the hirer's claim to reduction of the rental fee, damages or withdrawal from the rental contract shall not apply. The hirer shall be obliged to indemnify AMBION GmbH from any and all third-party claims asserted against AMBION GmbH by reason of or in connection with the use of the rental object. AMBION GmbH's claim to indemnification shall in particular include the costs incurred by AMBION GmbH in the defence against claims raised by a third party. AMBION GmbH shall not be liable for any loss which may be incurred by the hirer when using the rental object, in particular damage to other property or injury to persons. In case of failure of the rental object, the hirer shall be entitled to claim damages or to withdraw from the contract. Compensation for damages shall be limited to the rental fee. Further, more extensive claims by the hirer shall be excluded. Where AMBION GmbH's liability is excluded, this shall also apply to the personal liability of the personnel used by AMBION GmbH. If a rental object is hired without personnel of AMBION GmbH, the hirer shall ensure compliance with all safety regulations in force, in particular the accident prevention regulations and the VDE regulations.

5.) Third-party rights

The hirer shall keep the rental object free from all encumbrances, demands and liens of third parties. The hirer shall be obliged to notify AMBION GmbH without delay – handing over all necessary documents – if the rental object is nevertheless seized or claimed in any other way by a third party during the term of the rental contract. The hirer undertakes to pay the costs necessary to reverse such interventions by third parties.

6.) Cancellation

Should the hirer, for whatever reason, withdraw from the rental contract, AMBION GmbH may demand cancellation charges as follows in per cent of the order value (OV), without proving that it has incurred a loss:

From order placement: 20% of the OV

Until 30 days prior to start of renting: 30% of the OV

Until 14 days prior to start of renting: 50% of the OV

Until 8 days prior to start of renting: 70% of the OV

Until 3 days prior to start of renting: 100% of the OV

The Client shall be free to prove that a lesser loss has been incurred.

7.) Insurance

The hirer shall be obliged to take out due and sufficient insurance for the risk generally associated with the rental object. Conclusion of the insurance contract shall be proven to AMBION GmbH on request by presenting the insurance policy. AMBION GmbH may take out insurance against damage to the rental object for the benefit of the hirer but not against damage caused by negligence or misuse by the hirer. The costs of the equipment insurance shall be charged to the hirer. If required, the hirer shall be allowed to inspect the insurance policy at the premises of AMBION GmbH.

VI. Final provisions

- 1.) These GTC and the entire legal relationship between AMBION GmbH and its Clients shall be governed by the law of the Federal Republic of Germany. 2.) The contract and negotiation language is German.
- 3.) The place of jurisdiction for any dispute arising from the contractual relationship, directly or indirectly, shall be the place of jurisdiction of AMBION GmbH.
- 4.) Should any of the provisions of these GTC be or become invalid, this shall not affect the validity of the remaining provisions or agreements. The parties hereto undertake to agree on an admissible provision, as a substitute, that comes as close as possible to the consensual will of the parties.
- 5.) Verbal collateral agreements have not been made. Any amendment to these provisions shall only be valid if made in writing.