

Special Terms of Contract of AMBION GmbH (AMBION) for Sales and for Work and Materials Provided by AMBION GmbH to Customers other than Consumers

§1 SCOPE

- (1) These Special Terms and Conditions („STC Sale“) apply in addition to the General Terms and Conditions of AMBION to all contracts the subject matter of which is the sale or the delivery of objects („Goods“).
- (2) The STC Sale apply also to contracts which, in addition to the sale or delivery of Goods, concern other services of AMBION provided as ancillary services or as services not characterising the nature of the contract.
- (3) Beyond the scope of Section (2), the STC Sale apply in contracts regarding various services provided by AMBION for the sale and delivery of objects to the extent this is appropriate (e.g. with respect to shipping, warranty) and does not impair the nature of the contract.

§2 SHIPPING

- (1) Goods shall as a rule be shipped for the account and at the risk of the Customer. The Customer shall bear the risk of transport also if carriage paid delivery is agreed. Should shipping be delayed due to circumstances for which the Customer is responsible, the risk shall pass to the Customer on the day of readiness for dispatch.
- (2) Unless otherwise agreed, Goods shall be paid for by cash-on-delivery without deduction of discounts.

§3 WARRANTY

- (1) Unless otherwise agreed, used movable Goods are sold without any warranty. Should AMBION, in derogation from this, grant any warranty claims, AMBION shall be authorised to make substitute delivery for or to provide subsequent improvement of defective Goods or to demand rescission of the contract, unless express agreements to the contrary exist.
- (2) Warranty rights for new movable Goods shall become statute-barred one year after passing of the risk. This shall apply also if, in derogation from Section (1), warranty for used movable Goods has been agreed.
- (3) 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.
- (4) Where an upstream supplier or a manufacturer grants warranty or a guarantee to the Customer, AMBION's liability shall be excluded and AMBION may refer the Customer to the upstream supplier or manufacturer, assigning the claims against the upstream supplier or manufacturer.
- (5) Warranty claims of the Customer shall cease to exist if the Customer fails to give AMBION the opportunity to examine and, if applicable, remedy the defect.
- (6) AMBION shall be authorised to first make substitute delivery for or to provide subsequent improvement of defective Goods or to provide compensation for the reduced value to the Customer. The Customer may assert further rights only if AMBION repeatedly fails to provide warranty or if it is grossly inequitable due to particular circumstances to refer the Customer to substitute delivery, subsequent improvement or reduction of the price.
- (7) The provisions regarding exclusion and limitation of the Customer's warranty rights (including limitation periods) shall not apply in any case of wilful or grossly negligent behaviour by AMBION, injury to life, body or health, acceptance of a guarantee of freedom from defects, liability under the Produkthaftungsgesetz [German Product Liability Act] or assumption of a procurement risk.

§4 RETENTION OF TITLE

- (1) The Goods supplied shall remain the property of AMBION until full payment of all claims under the business relationship with the Customer, 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“).
- (2) If the Goods Subject to Retention of Title are processed, AMBION shall acquire co-ownership of the newly created items. If AMBION's ownership ceases to exist due to mixing, combination or processing, the Customer already now transfers title to the new items to AMBION to secure 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 paragraph.
- (3) The Customer 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 Customer shall not be entitled to dispose of such Goods in any other way. The Customer shall treat the Goods Subject to Retention of Title with care. The Customer shall take out sufficient insurance for the Goods Subject to Retention of Title against fire, water and theft on a reinstatement value basis. Any maintenance or inspection work which may become necessary shall be carried out by the Customer in due time and at its own expense. The Customer must not pledge the Goods Subject to Retention of Title or transfer them by way of security. The Customer already hereby assigns to AMBION by way of security to the full extent its claims for remuneration against its buyers arising from any resale of the Goods Subject to Retention of Title as well as those claims of the Customer with respect to the Goods Subject to Retention of Title which arise against its buyers or third parties from any other legal reason (in particular claims based on tort and claims to insurance benefits), including all current account balance claims. AMBION accepts the assignment.
- (4) Should AMBION make use of its retention of title, this shall be deemed withdrawal from the contract only if expressly declared by AMBION in writing. The Customer'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. AMBION shall have the right to take back the Goods Subject to Retention of Title. AMBION may utilise Goods Subject to Retention of Title which it has taken back. The proceeds of such utilisation shall first be set off against the costs of the utilisation and then against the amounts the Customer is in arrears with.
- (5) The Customer shall inform AMBION without delay of any seizure or other impairment of the Goods by a third party.
- (6) Should the value of the existing security exceed the total claim of AMBION against the Customer by more than 20%, AMBION shall be obliged to release securities at its option at the Customer's request.