

General Terms and Conditions of ElectronAix GmbH & Co. KG

§ 1 Contract conclusion and terms

§ 1.1 Application of ElectronAix Terms & Conditions

These terms and conditions shall apply to all contracts between ElectronAix GmbH & Co. KG („**ElectronAix**“) and its business partners („**Customers**“). They shall apply for all future contracts between the ElectronAix and the Customer, even if they are not explicitly referred to in such future contracts. Any terms and conditions of the business partner that are deviating from the ElectronAix terms and conditions are rejected by ElectronAix, unless ElectronAix explicitly consents to them in writing.

§ 1.2 Offers and Advertising

§ 1.2.1 Product offers from ElectronAix are non-binding („**Product Offers**“). The Customer can issue a binding purchase order („**Purchase Order**“) based on a Product Offer.

§ 1.2.2 ElectronAix retains ownership and copyrights relating to all of its offers, illustrations, drawings, calculations and other documents submitted with any of our offers. This applies in particular to documents labelled as "Confidential".

§ 1.2.3 General product information provided by ElectronAix shall not be considered a technical specification of the corresponding product. Technical features may vary depending on the specific production process and other factors. All technical information and product specifications are to be specifically agreed and labelled as such.

§ 1.2.4 Products are delivered as set out in the corresponding manufacturer's product specification. In case of any deviations between information provided by ElectronAix and the data sheets provided by manufacturer, the information provided on the respective manufacturer's data sheet shall prevail, unless explicitly otherwise agreed between the parties.

§ 1.3 Customer Purchase Orders

§ 1.3.1 Unless otherwise indicated by Customer, Customer's Purchase Orders shall be binding upon Customer for a period of four weeks. Upon receipt of a Purchase Order ElectronAix will send a corresponding non-binding receipt notice („**Receipt Notice**“) and, to the extent necessary, might request further technical information. The Receipt Notice does not constitute acceptance of the contract. A contract is only entered into when ElectronAix confirms Customer's Purchase Order („**Confirmation Notice**“) or delivers the ordered goods after all technical issues have been clarified.

§ 1.3.2 Customer shall provide all technical information and requirements along with his purchase order and shall supply any additional information required by ElectronAix or its suppliers for orderly order preparation and processing.

§ 1.3.3 ElectronAix may share Customer's purchase orders, inquiries, drawings, technical documents and samples with its current and/or potential suppliers.

§ 2 Delivery Times

§ 2.1 Delivery times indicated in ElectronAix product offers are delivery time estimates.

§ 2.2 Unless otherwise indicated in the Product Offer, the delivery times shall be calculated starting from the date [ALTERNATIVE 1: "on which all information requested by ElectronAix has been delivered by Customer and all technical and other inquiries have been answered." / ALTERNATIVE 2: "of order acceptance through Confirmation Notice by ElectronAix."]

§ 2.3 Customer must accept or collect the ordered products when offered to him. ElectronAix reserves the right to claim damages if Customer is in default of acceptance or violates other contractual or legal obligations affecting product delivery or hand-over.

§ 2.4 ElectronAix reserves the right to suspend its performance under the contract in case of Customer's delayed performance.

§ 3 Prices – Terms of Payment

§ 3.1 Unless otherwise explicitly agreed, our prices shall be ex works, excluding packaging; packaging will be invoiced separately.

§ 3.2 Upon Customer's request ElectronAix will take out an insurance policy for shipped products. The insurance costs shall be borne by Customer.

§ 3.3 VAT is not included in the prices set out in our offers and advertising; VAT will be declared and charged as applicable in accordance with mandatory statutory provisions valid and applicable on the invoice date.

§ 3.4 Cash discounts for early payment shall not be granted unless explicitly agreed between the parties in writing.

§ 3.5 Cash discounts are not granted while Customer is in default with any payment for current or previous deliveries.

§ 3.6 Unless otherwise stated in the Confirmation Notice, the net price is due and payable (without deduction) immediately upon receipt of the Confirmation Notice.

§ 3.7 The Customer shall not be entitled to set-off any claims unless his claims against ElectronAix have been confirmed by binding court ruling, are undisputed or have been explicitly acknowledged by ElectronAix.

§ 3.8 The Customer may not withhold or delay payment or other performance of obligations under this contract based on a counterclaim against ElectronAix unless such counterclaim stems from the same contract relationship.

§ 4 Transfer of Risk – Packaging Costs

Unless otherwise indicated in the Confirmation notice, the contract shall not include the returning or retrieval of packaging. The parties may however enter into separate agreements concerning such packaging retrieval or returns.

§ 5 Liability for Defects

§ 5.1 Customer shall inspect all products upon delivery and notify ElectronAix of any defects without undue delay. Products shall be considered accepted as is by Customer in accordance with Section 377 of the German Commercial Code (*German: HGB*) if Customer fails to inspect the purchased products or to notify ElectronAix of any existing defects without undue delay. In case of hidden defects Customer shall notify ElectronAix without undue delay as soon as such defects become visible or measurable. In case Customer fails to notify ElectronAix of a hidden defect without undue delay after it becomes visible or measurable in the ordinary cause of business, the product containing the defect shall be considered accepted as is.

§ 5.2 All claims for defects, regardless of such defect being apparent or hidden, must be made within one year from the time of delivery and are time barred thereafter.

§ 5.3 In case of defects ElectronAix shall be entitled to repair or, in its sole discretion, replace any defective item.

§ 5.4 Upon request from ElectronAix, the Customer shall send a defective item or test protocols to enable ElectronAix to verify that a defect exists or to rectify such defect. ElectronAix will bear the costs for shipping of defective products in accordance with Section 439 German Civil Code (*German: BGB*) if ElectronAix is responsible for the rectification of such defect. Upon request, Customer shall enable ElectronAix to examine defective parts at Customer's premises to the extent that this does not unreasonably impair Customer's business operations.

§ 5.5 Notwithstanding Subclause 5.2, statutory limitation periods for Customer's claims of recourse against ElectronAix pursuant to Sections 478, 479 German Civil Code BGB shall remain unaffected; The limitation period shall be five years from the delivery of the defective goods.

§ 6 Total liability

§ 6.1 The liability of ElectronAix for damages is excluded in cases of simple negligence to the extent that such negligence does not result in a violation of primary contractual obligations. Primary contractual obligations are such obligations that are essential to achieve orderly performance under the contract and that can be reasonably relied on by the parties.

§ 6.2 To the extent that ElectronAix is still liable for simple negligence in accordance with the preceding paragraph, such liability is limited to the amount of damages that are typical and reasonably foreseeable at the time the parties conclude the contract.

§ 6.3 The limitations of liability set out in this Clause 6 shall not apply to the liability of ElectronAix for willful misconduct, guaranteed product properties, death, personal injury, harm to personal health or liability resulting from the German Product Liability Act (*German: Produkthaftungsgesetz*).

§ 6.4 To the extent that our liability for damages is excluded or limited, such exclusion and/or limitation shall also apply to the personal liability of ElectronAix employees, officers, agents, staff, subcontractors and any other persons acting for or on behalf of ElectronAix, for damages caused by any such person.

§ 7 Retention of Title and Ownership

§ 7.1 ElectronAix retains legal ownership (*German: Eigentum*) of all purchased products until full payment of the purchase price and compliance with any other payment obligations resulting out of or in connection with the purchase contract.

§ 7.2 Customer's right to possess (*German: Besitz*) products delivered by ElectronAix prior to transfer of legal ownership is subject to Customer's timely compliance with his contractual obligations. ElectronAix may revoke Customer's right to possess delivered products which are still legally owned by ElectronAix in all cases in which ElectronAix is entitled to rescind/withdraw (*German: Rücktritt*) from the corresponding contract. In such case ElectronAix shall, in addition to any other claims for damages or recourse it may have, in its sole discretion be entitled to demand that Customer returns and ships the corresponding products at Customer's cost (a) to the place of business of ElectronAix or (b) such other place as directed by ElectronAix provided that ElectronAix covers the excess costs resulting from shipping the products to such other location instead of the place of business of ElectronAix.

§ 7.3 Until transfer of legal ownership Customer shall ensure that any items or products received from ElectronAix are thoroughly secured and treated and stored with highest care. Customer shall perform all service and maintenance work required (if any) at his cost. Customer shall maintain all risk insurance with an insurance amount covering at least the purchase price (incl. shipping and other miscellaneous costs charged by ElectronAix) until transfer of legal ownership.

§ 7.4 Customer may not at any time pledge, transfer as security or in any other way encumber or use as a collateral the products purchased from ElectronAix until full transfer of legal ownership has occurred through payment in accordance with Subclause 7.1.

§ 7.5 Customer shall immediately notify ElectronAix if any third party attempts or threatens to seize or pledge any products owned by ElectronAix. Customer shall undertake all acts and steps possible under the corresponding jurisdiction to prevent such seizure or pledge and shall fully cooperate with ElectronAix and respond to all reasonable request to prevent a seizure or pledge or to achieve that the property of ElectronAix is released and, to the extent a release is not possible, that ElectronAix is adequately compensated. Customer shall bear all costs resulting from such actual or threatened seizure or pledge, in particular any reasonable legal costs incurred by ElectronAix.

§ 7.6 Customer may process, transform, mix or incorporate products legally owned by ElectronAix with other products or items subject to the following conditions. Customer shall ensure that (a) ElectronAix can and does maintain its legal ownership for its products even after the processing, transformation, mixing or incorporating of such products in or into other products or (b) that ElectronAix directly obtains by law or is immediately granted or assigned (partial) legal ownership by Customer for the new products so created. In case of the latter, the act of processing, transformation, mixing or incorporation itself shall, to the extent legally permissible, be interpreted as an assignment of (partial) ownership to ElectronAix. The partial Ownership shall reflect the value of the products owned by ElectronAix that are used in or for the processing, transformation, mixing or incorporation process. All provisions of this Clause 7 shall apply to the products created in accordance with this Subclause 7.5.

§ 7.7 The Customer may, subject to Subclause 7.6, sell products received from ElectronAix prior to transfer of legal ownership in the ordinary course of its business, provided that he assigns all his claims under such sale contract to ElectronAix. ElectronAix and Customer agree that the act of entering into a sales contract between Customer and any third party purchaser shall at the same time constitute an assignment of all claims against such third party purchaser for the purpose of serving as a security for claims of ElectronAix against Customer.

§ 7.8 Customer shall immediately inform ElectronAix of any sale of products in accordance with Subclause 7.7 and provide ElectronAix with all relevant information, including but not limited to the name, address and contact details of the third party purchaser, the sales price, and any contract and payment terms.

§ 7.9 ElectronAix will refrain from directly collecting the assigned amounts from the third party purchaser and Customer shall remain entitled to collect such amounts from such third party purchaser as long as Customer is in full compliance with his payment obligations vis-à-vis ElectronAix.

§ 7.10 A sale in accordance with Subclause 7.5 is not permitted where Customer cannot – due to national legal or contractual limitations – or does not ensure that Customer's claims against the third party purchaser can and are effectively assigned to ElectronAix.

§ 7.11 ElectronAix will release securities held in accordance with this Clause 7 by way of transferring ownership for individual items if and to the extent that the value of the products held by ElectronAix exceeds the value of the outstanding payments owed by Customer by more than 10%.

§ 8 Export & Binding Distribution Agreements

§ 8.1 The Customer undertakes vis-à-vis ElectronAix to comply with all export regulations applicable in the European Union and the United States of America.

§ 8.2 The export of products restricted by export control provisions is permitted only with the approval of the competent export control authorities in Germany, the European Union and/or the United States of America.

§ 8.3 All national and international embargoes must be strictly observed when exporting products.

§ 8.4 Violation of these export restriction terms may constitute a criminal offence punishable by law in various jurisdictions.

§ 8.5 In the case of goods that are subject to a binding distribution agreement, the special terms and conditions of the vendor or manufacturer shall apply in addition to the general terms and conditions of ElectronAix.

§ 9 Jurisdiction – Place of Performance

§ 9.1 This agreement and any claims resulting therefrom shall be governed by the laws and regulations of the Federal Republic of Germany excluding the international private law provisions and excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

§ 9.2 The place for performance is Aachen. If the Customer is a merchant („*Kaufmann*“) as defined in the German Commercial Code (HGB), a governmental legal entity or a special funds under public law the courts of Aachen shall have exclusive jurisdiction for all disputes arising out of or in connection with agreements that incorporate these general terms and conditions. The same shall apply if Customer has its place of business outside Germany or moves its place of business to a place outside Germany after the contract is concluded.