

## Terms and Conditions of AIRSENSE Analytics GmbH

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### 1. Scope of application

All deliveries and customer services are subject to these General Terms and Conditions. Any terms and conditions deviating from these present terms and conditions are not valid without the express consent in writing of AIRSENSE Analytics GmbH. This also applies if AIRSENSE enters into a contractual relationship without reservation in the knowledge of the customer having contradictory or deviating terms and conditions. All orders and commissions and any specific undertakings by AIRSENSE require order confirmation in writing by AIRSENSE Analytics GmbH. This may be waived only on the basis of written agreement. In the event of these terms and conditions coming into conflict with others, civil and commercial law will not apply but solely these General Terms and Conditions to the extent that no mandatory statutory regulations provide otherwise.

These General Terms and Conditions apply only with respect to entrepreneurs, legal entities under public law or special assets under public law as defined in § 310 I BGB (German Civil Code).

### 2. Subject of the contract

Minor deviations from the description of the offer are regarded as approved and do not affect compliance with the contract. Modifications and/or improvements that serve the purpose of technical progress or enhance the value of goods may be undertaken at any time without a change to the subject of the contract being required, insofar as this is reasonable for the customer. Some products may contain selected and carefully reconditioned parts, the performance of which corresponds to that of new parts.

### 3. Offers to enter into a contract / acceptance

All offers made by AIRSENSE Analytics GmbH are subject to change and without obligation. They are not offers to contract but requests for the submission of offers to contract by the customer. The right to sell the goods elsewhere is reserved. Orders, commissions and any specific undertakings by AIRSENSE Analytics GmbH require written confirmation by AIRSENSE in order to be effective.

### 4. Delivery and scope of contractual obligations

If it is agreed that specific products will be installed and made ready for use on the customer's premises, the products will be regarded as ready for use if no errors are detected during a functional test using test programmes and procedures developed by AIRSENSE Analytics GmbH for this purpose, and once AIRSENSE has confirmed to the customer in writing that the products are ready for use. Otherwise, AIRSENSE will carry out the functional test during the final inspection in the factory. The customer must allow AIRSENSE free access to the products supplied by AIRSENSE at the agreed customer service appointments and unrestricted access to the associated diagnostics and operating programs, documentation, etc.

Within the framework of customer service commissions, AIRSENSE is authorised to perform all necessary maintenance work and all other work that may be necessary for ensuring fault-free functioning of the instruments and their specifications. Functional improvements may be undertaken by AIRSENSE at any time and will not be invoiced to the customer.

AIRSENSE Analytics GmbH is authorised to provide partial deliveries and partial services to an extent that can be deemed reasonable for the customer, if the partial delivery or partial service takes place before the due date of the delivery commitment and if partial deliveries or partial services are indicated as such. Partial delivery or partial service cannot be provided

insofar as the customer may demand delivery from one series in order to avoid material defects.

### 5. Delivery dates and deadlines

Delivery dates depend on availability of the products at the time of receipt of the order by **AIRSENSE**. All dates and deadlines for deliveries and services from **AIRSENSE** are binding only if they have been defined as binding in writing by **AIRSENSE**.

Compliance with all the customer's contractual obligations is a prerequisite for the delivery deadline being met by **AIRSENSE**. If the customer is a merchant as defined by the German Commercial Code (HGB), the delivery deadline is regarded as having been met if the goods to be delivered have left the warehouse by the time of the deadline or if the customer has been informed that they are ready for shipment.

If the customer is in default of acceptance or has otherwise infringed its obligations of cooperation, **AIRSENSE Analytics GmbH** is entitled to claim compensation, including additional costs. The right to make further claims is reserved.

Liability for accidental loss or deterioration to the goods passes to the customer with effect from the time of infringement of contractual obligations by the customer (obligation of cooperation, other obligation).

If failure to meet a deadline is attributable to reasons for which **AIRSENSE** cannot be held responsible, e.g. force majeure, lock-out, interruption of the supply of raw materials, or other unpredictable, exceptional circumstances outside the control of **AIRSENSE**, the delivery deadline will be extended by an appropriate time. If **AIRSENSE** is unable to deliver a product by the agreed delivery deadline for other reasons, the customer must set **AIRSENSE Analytics GmbH** an appropriate grace period for delivery. The customer is entitled to withdraw from the contract after fruitless expiry of a reasonable deadline set by the customer in the event of unreasonable extension of the delivery deadline, but no

sooner than four weeks after the occurrence of a reason based on force majeure for extension of the delivery deadline.

Total withdrawal from the whole contract after the start of implementation of the contract is possible only if the customer demonstrably has no further interest in the partial deliveries already provided. Liability of the user is ruled out in such cases.

The customer otherwise remains obliged to accept and pay for later delivery insofar as this does not substantially impair its interests.

### 6. Reservation of delivery

**AIRSENSE** is entitled to withdraw from the contract in the event of non-delivery by an upstream supplier to **AIRSENSE Analytics GmbH**, for which **AIRSENSE** is not responsible. If performance or delivery becomes impossible or unreasonable for reasons beyond the control of **AIRSENSE**, **AIRSENSE** will be released from its performance obligation.

**AIRSENSE** is not liable for default or non-compliance if circumstances apply that **AIRSENSE** is unable to influence with reasonable effort and expense. The customer will be informed of this without delay and any payments already made will be refunded.

### 7. Order cancellation and indemnification

If the customer cancels an order with the consent of **AIRSENSE Analytics GmbH**, **AIRSENSE** may, without further evidence, demand indemnification in the sum of 15% of the basic price in accordance with the **AIRSENSE** list price for the product in question. In the event of cancellation after delivery of the products, the customer will be additionally charged with the cost of return transport, plus a lump sum for loss of value and use of 25% of the purchase price in the case of return and cancellation within the first six months after delivery, with a further 10% for each additional six months up to the end of 2 years, and subsequently a further 5% for each additional year. This will not apply if the customer can prove that **AIRSENSE** has suffered no loss or has suffered a substantially lower loss.

## 8. Assignment, offset and right of retention

The customer may transfer rights and obligations arising from this contract only with the written consent of **AIRSENSE**. He may offset against payment claims by **AIRSENSE** only if the counterclaim for payment on the part of the customer is undisputed or legally binding. Right of retention may only be invoked for claims arising from the same legal relationship with **AIRSENSE**.

## 9. Prices and packaging costs

Only the current list prices of **AIRSENSE** Analytics GmbH at the time of receipt of the order plus the statutory value-added tax are applicable. Prices are binding from receipt of the order up to the end of a delivery window of four months. Changes to an order that extend the delivery date beyond these four months will be treated like a new order based on the currently applicable **AIRSENSE** list prices. Prices are carriage forward ex works excluding supplementary payments. The costs of packaging and shipment will be paid by the customer.

## 10. Payment and due dates

Payments are due immediately upon receipt of invoice. This also applies to invoices for partial deliveries. Bills of exchange are acceptable as means of payment only if this has been agreed in advance. Bills of exchange and cheques are accepted only as conditional payment. Stamp duty on bills of exchange and collecting expenses must be borne by the customer. **AIRSENSE** Analytics GmbH is entitled to calculate interest in the sum of 8 percentage points above the base interest rate from the due date for late payment if the customer is a merchant. **AIRSENSE** Analytics GmbH reserves the right to claim further damages resulting from default.

## 11. Advance payment and security

If the customer's financial circumstances should deteriorate, or should any justifiable doubts arise as to its ability or willingness to pay, particularly in the event of bill of exchange or cheque protests, applications for insolvency

proceedings to be opened, or payment arrears from other performances, **AIRSENSE** is entitled to demand payment in advance or security and to withhold performances until advance payment or security has been received, or to withdraw entirely or in part from the contract. In any event, all claims by **AIRSENSE** arising from the contractual relationship are payable immediately.

## 12. Insurance of the goods

**AIRSENSE** Analytics GmbH is entitled but not obliged to insure the goods at the expense of the customer. **AIRSENSE** Analytics GmbH will inform the customer as to whether the goods have been insured.

## 13. Default of acceptance

In the event of delivery or the performance of services being delayed by circumstances that are the responsibility of the customer, he is liable to pay the costs incurred by **AIRSENSE** from this delay. For each week of delay, **AIRSENSE** Analytics GmbH may demand flat-rate compensation in the sum of 3% of the value of the delivery but no more than a maximum of 15% of the delivery value, although **AIRSENSE** remains free to prove higher damages. The customer is free to prove that **AIRSENSE** Analytics GmbH has incurred no damages or substantially lower damages as a result of the default of acceptance.

## 14. Transfer of risk

The risk is transferred to the customer as soon as the shipment is handed over to the person implementing the transport, or has left **AIRSENSE**'s business site for dispatch, regardless of whether shipment takes place from the place of performance and of who bears the carriage costs. If the goods are in the warehouse and shipment or acceptance is delayed for reasons beyond the control of **AIRSENSE**, the risk is transferred to the customer upon receipt of notification that the goods are ready for shipment. This does not apply to obligations to be performed at the creditor's place of business and to mail order.

## 15. Complaints

Warranty claims by the customer as a result of obvious defects are not permissible unless the customer makes the complaint immediately upon handover of the product. If the customer is a merchant, the obligations regarding inspection and complaint under § 377 HGB must be observed and complaints made immediately. The statutory term applies to concealed defects.

## 16. Limitation of liability

Claims for compensation resulting from other defects are not permitted unless they are based on wilful or grossly negligent violation of obligation by **AIRSENSE**, its legal representatives or agents. Cases in which liability is mandatory under the German Product Liability Act or as a result of physical injury and cases involving claims arising from §§ 280, 281, 283, 311a para. 2 BGB constitute exceptions to the above. Any further claims against **AIRSENSE**, legal representatives and agents of **AIRSENSE** are excluded.

## 17. Software licences

The customer is granted non-exclusive, restricted utilisation rights to **AIRSENSE** software and to third-party software supplied by **AIRSENSE** (software developed by a software supplier independent of **AIRSENSE**) and to the relevant associated documentation, supplements thereto and other documents, for the purpose of personal use or in the context of the customer's business operations on its computer system. All other rights to the software and documentation, including copies and subsequent upgrades are retained by **AIRSENSE** and the software supplier. Sub-licences may not be issued. The customer may observe, investigate or test the functioning of the software in order to determine the ideas and principles underlying the software if this is accomplished by means of actions involving loading, display, running, transfer and saving of the software to which the customer is entitled under the contract. Apart from this, the customer may not, without the written consent

of **AIRSENSE**, duplicate, process, translate or convert the software from object code to source code, either wholly or in part. The customer must ensure that the software and documentation is not accessible to third parties without the written consent of **AIRSENSE** in advance. Copies may in principle be created only for archiving purposes, for data protection and for debugging.

## 18. Warranty

In the case of software, the restricted licence and warranty provisions of the relevant manufacturer apply as additionally recognised. **AIRSENSE** points out that it is not technically possible to develop error-free software for all conditions of use. A minor reduction of usefulness is therefore not taken into account. The possibility cannot be ruled out that data may be deleted or become unusable during software installation, so that third-party programs may possibly no longer function perfectly. **AIRSENSE** assumes no liability for this. Losses and consequential losses linked to the above are borne by the customer. The customer undertakes to create complete back-up copies of its data prior to any installation work and to install these in the event of any data loss in order to prevent the occurrence of loss or to reduce the extent of such loss. Insofar as the customer demands a specific hard- and software arrangement, **AIRSENSE** assumes no liability for the perfect functioning of the software on the hardware specified by the customer. Software errors that have more than a minor adverse effect on the intended use will be corrected, at **AIRSENSE**'s discretion and depending on the importance of the error, by the supply of an improved version of the software or, in the case of minor errors, by eliminating or bypassing the effects of the error.

**AIRSENSE** is entitled to eliminate faults in performance and to repair or replace defective products as it sees fit. Parts that are replaced become the property of **AIRSENSE** without

compensation. The customer is entitled to withdraw from the contract or to demand a reduction in the purchase price or payment in the event of failure of the corrective actions. The customer must allow **AIRSENSE** reasonable time and opportunity to correct any faults. **AIRSENSE** is released from warranty should the customer refuse to do this. Incorrectly performed modifications, repairs, maintenance and operation of the products by the customer or third parties exclude **AIRSENSE**'s liability for any consequences of such actions. Liability for defects is ruled out in the case of natural wear or soiling. This applies in particular to any gas sensors used.

The warranty period is 12 months; for repairs and spare part deliveries and for customer services taking place after expiry of the original warranty period, the warranty period is 6 months or 12 months in the case of the purchase of consumer goods. The warranty period commences with the transfer of risk to the customer or with receipt by the customer of the notice that the goods are ready for shipment.

#### **19. Retention of title, assignment of security**

**AIRSENSE** Analytics GmbH retains ownership of the products supplied until the purchase price has been paid in full and until all obligations arising from the contractual relationship have been fulfilled (goods subject to retention of title). If the customer is a merchant, the property passes to him only once all its obligations arising from the business relationship with **AIRSENSE** have been redeemed, including future (balance) claims. In the event of installation in third-party goods or conversion by the customer, **AIRSENSE** will be co-owner of the newly created products in proportion to the value of the goods subject to retention of title as a percentage of the third-party goods with which they are being used. The products created in this way are also regarded as goods subject to retention of title by **AIRSENSE**. If the customer does not meet its payment obligations to **AIRSENSE**, he is entitled to resell the goods subject to retention of title

only if he discloses the retained title. No other disposal of the goods subject to retention of title is permitted, particularly not pledging or assignment of security. In the event of access by third parties to the goods subject to retention of title, the customer must point out **AIRSENSE**'s ownership and inform **AIRSENSE** without delay. By way of security, the customer hereby assigns any future receivables from the resale or subleasing of the goods subject to retention of title, including all ancillary rights, in the sum of the value of these goods. The customer is entitled and obliged to collect the assigned receivables. In the event of the customer defaulting on payment, **AIRSENSE** is entitled to revoke this collection authorisation at any time and to notify the sub-purchasers of the assignment, to take back the goods subject to retention of title or, if appropriate, to demand the assignment of the customer's right to recover possession from third parties. The customer is obliged to provide **AIRSENSE** with the information required to collect the receivables and to hand over any associated documents. Taking back or pledging the goods subject to retention of title by **AIRSENSE** does not constitute withdrawal from the contract. **AIRSENSE** will release the securities at the request of the customer insofar as their value exceeds all the claims being secured by more than 20%.

#### **20. No Russia Clause**

The customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014. The customer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers. Any violation of paragraphs (1) or (2) shall constitute a material breach of an essential element of this Agreement, and the **AIRSENSE** shall be entitled to seek appropriate remedies, including, but not limited to

termination of this Agreement. The customer shall immediately inform **AIRSENSE** about any problems in applying paragraphs (1) or (2), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The customer shall make available to **AIRSENSE** information concerning compliance with the obligations under paragraph (1) or (2) within two weeks of the simple request of such information.

### **21 Written form and partial invalidity**

The invalidity of individual provisions of these General Terms and Conditions or of individual contracts does not affect the validity of the remaining agreements and provisions. All amendments to the contract must be in writing in order to be effective.

### **22. Data protection**

The customer agrees that its data may be stored and processed electronically within **AIRSENSE Analytics GmbH**.

### **23. Place of performance and jurisdiction, applicable law**

The place of performance for all deliveries and performances is Schwerin. Schwerin is agreed as the place of jurisdiction for all disputes arising from the business relationship insofar as the customer is a merchant as defined in the German Commercial Code (HGB) or has no general place of jurisdiction in the Federal Republic of Germany. **AIRSENSE** is entitled to assert claims before the competent court of the domicile/registered office or habitual residence of the customer. The law of the Federal Republic of Germany applies exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.