

Terms and Conditions of Business

As of: June 2021

Recitals

These Terms and Conditions of Contract are concluded between Axios 3D Services GmbH, Im Technologiepark 4, 26129 Oldenburg, Germany, entered in the company register kept by the District Court (*Amtsgericht*) Oldenburg under number HRB 4541, represented by the Management Board Member, Dipl.-Ing. (FH) Holger Broers, VAT ID No.: DE 206 584 740 (hereinafter: "**we**" or "**Axios 3D**"), and the customer specified in § 1(1).

A. General Part

§ 1 Scope of Application

- (1) 1.4 These Terms and Conditions shall apply to enterprises, legal entities under public law, and public-law special funds (hereinafter: "**Customer**").
- (2) We provide our services, deliveries and proposals exclusively according to the following Terms and Conditions. They shall also apply to all future transactions of the same type.
- (3) The Customer's terms and conditions shall not apply even if we do not separately object to their validity. Therefore, any terms and conditions that are different from or in conflict with these Terms and Conditions shall apply only if we recognise them in writing.

§ 2 Proposal and Contract Conclusion

- (1) Our proposals shall be non-committal and non-binding, unless we have expressly described them as binding.
- (2) We can accept the Customer's purchase order which can be classified as a proposal for entering into a contract by either sending a written confirmation or performing the contractual service.
- (3) The legal relationship between us and the Customer shall be governed solely by the written contract and the order confirmation, including these Terms and Conditions. These documents shall be deemed to fully reflect all arrangements between the parties regarding the subject matter of the contract. Any commitments we made verbally before concluding this contract shall not be legally binding and any verbal arrangements made between the contractual parties shall be replaced with the written contract and the order confirmation, unless it follows expressly from them that they continue to be binding.
- (4) Any drawings, illustrations, dimensions, weights or other performance-related data shall be binding only if this has been expressly agreed in writing.

§ 3 Delivery, Transfer of Risk

- (1) Deliveries shall be made from our office.
- (2) The risk shall pass to the Customer at the latest upon handing over the delivered items to the forwarding agent, the carrier or a third party appointed to ship the items (crucial for passing the risk is the start of the loading process). This shall also apply to partial deliveries or if the seller has also taken over the handling of other services (e.g. shipment or installation).
- (3) If the Customer is late to call off, accept or pick up the goods, we will be entitled to demand compensation for the resulting loss; the risk of accidental deterioration and accidental loss of the goods shall pass to the Customer upon the occurrence of the delay to accept the goods.
- (4) The scope, type and time of the delivery will be ultimately defined in our order confirmation. Delivery times shall be specified approximately unless otherwise agreed with the Customer. Delivery deadlines will only start to run after all performance details have been clarified and on condition that the Customer fulfils its obligation properly and in a timely manner. The originally agreed delivery deadline will be cancelled if the purchase order is changed.

- (5) We will be entitled to perform partial deliveries of goods and services only if they serve the Customer's interest according to the purpose of the contract and no additional expenses arise for the Customer on this account.
- (6) In the case of delay in delivery not resulting from our wilful misconduct or gross negligence, we shall bear liability for lump-sum damages for delay at the rate of 1% of the delivery value for every full week of delay; however, not to exceed 5% of the delivery value. This shall not affect further statutory claims and rights of the Customer due to delivery delay.

§ 4 Prices and Payment

- (1) The prices shall apply to the scope of services and deliveries stated in the order confirmations. All additional or special services shall be invoiced separately. The prices shall be in EUR ex works plus statutory value added tax, freight/shipment costs, customs duty (in the case of exports), fees, and other public charges. We shall be additionally reimbursed for, or paid, any travelling costs and expenditures for trips prompted by the Customer to destinations outside the agreed place of performance.
- (2) Discounts shall be deducted based on a special written agreement.
- (3) We charge fees for the standard packaging used for transport/shipment at cost, unless otherwise agreed with the Customer. Prices do not include transport insurance.
- (4) Our invoices shall be due and payable without deduction within 14 days of the invoice date. If the Customer does not pay the invoice when due, the outstanding amounts shall bear interest of 5% p.a. from the due date; this shall not affect the right to claim higher interest and further damages in the event of default.
- (5) Axios 3D will be entitled to make outstanding deliveries and to provide outstanding services solely against advance payment or upon provision of security should we become aware after the conclusion of the contract of any circumstances that may materially impair the Customer's creditworthiness or that threaten the payment by the Customer of our open claims under the respective contractual relationship. We will be further entitled to make a delivery dependent on payment of consideration (German: *Zug-um-Zug-Zahlung*)) without giving reasons and reserve the right to collect cash on delivery or to demand payment in advance.

§ 5 Offset; Right of Retention

- (1) The Customer may offset our claims only against uncontested, recognised by us, and legally established claims, or claims being counterclaims as part of our mutual relationship.
- (2) The Customer will only be entitled to exercise a right of retention if its counterclaim arises from the same contractual relationship.

§ 6 Default; Right of Withdrawal

- (1) If the Customer is late with payment, the statutory provisions shall apply.
- (2) Delivery deadlines and delivery obligations shall be suspended as long as the Customer is late to accept the delivery or in default of other obligations or has exceeded the credit limit granted by us.
- (3) We shall not be held liable if we cannot perform a delivery or if we are late with a delivery due to force majeure or other events which could not be foreseen at the time of concluding the contract and which are beyond our control (e.g. all kinds of business disruptions, difficulties in the purchase of materials or energy, transport delays, strikes, legal lockouts, shortage of labour force, energy or raw materials, difficulties in obtaining necessary official approvals, pandemics, official measures, or missing, incorrect or untimely deliveries by suppliers). We will be entitled to withdraw from the contract if such events significantly hinder, or render impossible, the delivery of goods or a service, and the hindrance is not only temporary. In the case of temporary hindrances, the deadlines for the delivery of the goods or the service shall be extended by, or postponed for, the duration of hindrance plus an appropriate lead time. If the Customer cannot reasonably accept the delivery of the goods or the service due to delay, the Customer may withdraw from the contract by immediately submitting a written declaration to Axios 3D.
- (4) We will be entitled to withdraw from the contract if, after concluding the contract, we learn about circumstances indicating that the purchaser is not creditworthy.

- (5) Furthermore, the Customer may withdraw from the contract according to the provisions of Article 323 of the German Civil Code (BGB) if Axios 3D breaches its obligations by defective performance and we take no steps after receiving from the Customer at least a two-week deadline for curing the defect.
- (6) In any case, the withdrawal shall be allowed only on the conditions specified above and must be declared in writing to the other contractual party within four weeks of becoming aware of the reason for the withdrawal. In particular, the Customer's right of withdrawal shall be excluded if the Customer breaches its obligations through its own fault.

§ 7 Liability

- (1) We shall be liable for any arising damage only if such damage results from a breach of a material contractual obligation, wilful misconduct or gross negligence committed by us, our legal representatives or vicarious agents.
- (2) If a material contractual obligation is breached by slight negligence, our liability shall be limited to foreseeable damage typical of the contract. A material contractual obligation shall mean an obligation whose discharge is essential for the proper performance of the contract and on whose observance the Customer usually can and does rely.
- (3) Any liability for damages going beyond this scope shall be excluded. This shall not affect the statutory liability for culpable injury to life, limb or health. The same shall apply for mandatory liability according to the Product Liability Act.
- (4) The above-mentioned liability exclusions and limitations shall apply in equal scope to the liability of the authorities, statutory representatives, employees and other vicarious agents of Axios 3D.

§ 8 Confidentiality

Confidentiality shall be governed by the confidentiality agreement ("Confidentiality Agreement") separately concluded between the Parties and attached hereto as appendix.

§ 9 Place of Performance; Jurisdiction; Applicable Law

- (1) Oldenburg shall be the place of performance of all our delivery obligations and other contractual obligations of both Parties.
- (2) This contract, these Terms and Conditions, and the entirety of legal relationships between the Customer and us shall be governed and controlled by the law of the Federal Republic of Germany.
- (3) Oldenburg shall be the place of jurisdiction for all disputes arising from this contractual relationship. However, we are entitled to sue the Customer also at the place of the Customer's registered office.

§ 10 Export Control

- (1) The Parties are aware that the contractual items may be subject to export and import restrictions. In particular, the contractual items may require approvals, or the use of the contractual items or the related technologies may be subject to restrictions abroad. The Customer shall observe the applicable export and import control laws of the Federal Republic of Germany, the European Union, and the United States of America, and all other applicable laws. Axios 3D shall perform the contract on condition that there are no obstacles preventing the performance due to national and international export and import regulations and any other laws.
- (2) The Customer shall obtain any and all required export licences or other documents at its own expense.

§ 11 Miscellaneous

- (1) Should any of the provisions hereof be or become invalid, or contain a loophole, this shall not affect the validity of the remaining provisions.
- (2) Claims arising on the part of the Customer from the business relationship with Axios 3D may not be assigned to other parties.

- (3) The rights and obligations under the software lease agreement included in Part C. may be transferred to a third party only with prior written consent of the other Party.

B. Special Part concerning the Sale of Hardware

§ 12 Subject Matter of the Contract – Purchase

- (1) The Customer shall purchase from the Supplier the hardware listed in the proposal.
- (2) The hardware to be delivered shall include a short digital manual explaining how to set up and install the hardware.

§ 13 Retention of title

- (1) The delivered goods shall remain our property (goods subject to the retention of title) until all claims arising and arisen from the business relationship are finally paid for. In the case of multiple claims or if the Customer has an open account with the Supplier, the retention of title shall serve as security for the claim balance, even if individual deliveries of goods have already been paid.
- (2) If the Customer is in breach of the contract, e.g. in default of a payment, we will be entitled to reclaim the goods subject to the retention of title after setting a reasonable deadline in advance. If we reclaim the goods subject to the retention of title, this shall constitute a withdrawal from the contract. We are entitled to exploit the goods subject to the retention of title after reclaiming them. After deducting an appropriate amount covering the costs of exploitation, the proceeds from exploitation shall be set off against the amounts owed to us by the Customer.
- (3) Should third parties access the goods subject to the retention of title, including but not limited to the seizure of the property, the Customer shall inform the seizing entity of our ownership of the goods and notify us immediately so that we can enforce our ownership rights.
- (4) The Customer is entitled to process and sell the goods subject to the retention of title in the ordinary course of business as long as the Customer is not in default. Pledges or chattel mortgage are not permitted. The Customer hereby assigns to us as security all claims arising from reselling the goods subject to the retention of title or arising on any other legal grounds (insurance, tortious act) in connection with these goods. We revocably authorise the Customer to collect the claims assigned to us in its own name and for its own account. The authorisation to collect the claims shall expire if the Customer does not properly fulfil its payment obligations, gets into payment difficulties, compulsory enforcement measures are taken against it or judicial insolvency proceedings are opened against its assets or the opening of such proceedings is rejected for lack of assets.
- (5) Processing or conversion of the goods shall always be carried out for us as manufacturer, but without creating any obligation upon us. If the goods to be delivered are processed together with other items that do not belong to us, we will become co-owners of the new thing proportionately to the ratio of the value of the item to be delivered to the other items processed as of the date of processing. If the goods to be delivered are mixed or inseparably combined with other items that do not belong to us, we will become co-owners of the new thing proportionately to the ratio of the value of the goods to be delivered to the other items combined or mixed. If, in the event of combining or mixing items, the Customer's item is to be regarded as the main item, the Parties agree that the Customer will transfer to us co-ownership of the new item on a pro rata basis. The Customer shall hold the goods subject to our co-ownership thus created in safe custody for us.
- (6) We shall release the security interests to which we are entitled if the realisable value of our security interests exceeds the claims to be secured by over 10%; in this respect, we shall be the party to select the security interests to be released.

§ 14 Warranty – Purchase

- (1) In the event of a breach of a contractual obligation, the Customer will be entitled to assert its statutory rights against us in accordance with the following provisions.
- (2) The Customer will only be entitled to warranty claims if he has complied with its obligations to examine the goods and give notice of defects in accordance with Article 377 of the German Commercial Code (HGB).
- (3) In the event of a justified and timely notice of defect, the Customer will be entitled to have the defect cured during the warranty period; we will be entitled to choose the way of curing the defect – elimination of the defect or delivery of a defect-free item. If the cure of the defect fails

or if further attempts at curing the defect are unreasonable for the Customer, the Customer will be entitled to a price reduction or to withdraw from the contract.

- (4) If a claim is made against the Customer by its customer or a consumer due to a defect in the delivered goods which was already present at the time of the transfer of risk or about which a consumer as the end customer made a complaint, the Customer's statutory rights of recourse against us pursuant to Articles 478, 479 of the German Civil Code (BGB) will remain unaffected.
- (5) The Customer may only assert claims for damages on the terms and conditions specified in § 7 due to a defect if the cure of the defect has failed or we refuse to cure the defect. The right of the Customer to assert further claims for damages on the terms and conditions specified in § 7 shall remain unaffected.
- (6) Only the Customer will be entitled to make claims against us for defects and such claims shall not be assignable.
- (7) The limitation period for claims arising from defects is one year of the transfer of risk. This shall not apply if longer periods are prescribed by law in accordance with Articles 438 (1) no. 2 (buildings and things used for buildings), 478, 479 (supplier recourse) and 634 a (1) no. 2 of the German Civil Code (BGB) (construction defects) as well as in cases of injury to life, limb or health, in the event of an intentional or grossly negligent breach of duty by us, and in the event of malicious concealment of a defect.

C. Special Part concerning Software Lease

§ 15 Subject Matter of the Contract – Lease

The subject matter of these provisions is the provision of the computer program ("Software") described in the proposal for use over a specific period for a fee combined with the granting of rights of use thereto.

§ 16 Software Handover and Installation

- (1) We shall deliver the Software to the Customer by making it available for access on our servers. The Customer will be provided with access details required for the use of the Software (including licence keys or log-in data).
- (2) In addition to the Software, we will provide the Customer with installation instructions and a user manual ("Documentation") in digital form.
- (3) We are not obligated to install the Software on the Customer's systems; the Customer is solely responsible for this. Training and instruction are not our obligation, either. These can be ordered separately for an appropriate fee.

§ 17 Granting of Rights

- (1) Upon full payment of the lease fee in accordance with §§ 4 and 17 of these Terms and Conditions, we shall grant the Customer the non-exclusive, non-transferable and non-sublicensable right, limited in time to the term of the contract and in location to the territory of the country in which the Customer has its registered office, to use the Software to the extent specified in these Terms and Conditions. In addition to downloading and installing the Software, the contractual use of the Software includes loading it into the main memory, displaying it and running it. The user documentation provided is subject to the retention of title until the lease fee is paid in full.
- (2) The Customer may make a backup copy of the Software provided to it.
- (3) Otherwise, the Customer may not make any copy, unless otherwise provided by law.
- (4) The use of the provided Software is only permitted on the computer on which the Software was first installed and activated. Any renewed installation of the Software, for whatever reason, even on the original computer, requires activation by us.
- (5) The Customer may not hand over the copy of the Software provided to it for use or the backup copy made, if any, to any third parties. In particular, the Customer is not permitted to sell, lend, lease or otherwise sub-license the Software or to publicly reproduce the Software or make it accessible to the public.

- (6) If the Customer violates any of the above provisions, all rights of use granted under these Terms and Conditions shall immediately become invalid and shall automatically revert to us. In this case, the Customer shall immediately and completely discontinue the use of the Software, delete all copies of the Software installed on its systems and delete any backup copy that may have been made or hand them over to us.

§ 18 Lease

- (1) The Customer shall pay an annual fee for the provision of the Software plus the applicable value added tax. The prices are stated in our proposal.
- (2) The lease fee payable by the Customer shall be paid in advance. The due date arises from § 4 (4) of these Terms and Conditions.

§ 19 Duty of Care

- (1) The Customer shall take appropriate measures to ensure that unauthorised third parties cannot access the Software, the backup copy, the Documentation and other accompanying materials supplied.
- (2) In particular, the Customer shall store all existing copies of the Software including the backup copy as well as all associated documentation in a place protected from unauthorised access by third parties. The costs for storage shall be borne by the Customer.

§ 20 Warranty – Lease

- (1) Technical data, specifications and performance details provided in public statements, including in advertising material, are not information on the quality [of the Software]. The functionality of the Software is, first of all, based on the description in the user documentation and the supplementary agreements made in this regard. In addition, the Software must be suitable for the use specified under the contract and must otherwise have a quality that is customary for software of the same type.
- (2) We shall provide and maintain the Software in a condition suitable for use in accordance with the contract. In order to fulfil our maintenance obligation, we shall carry out the maintenance and servicing measures according to the state of the art. The maintenance obligation does not include the adaptation of the Software to changed conditions of use and technical and functional developments, such as changes to the IT environment, in particular, changes to the hardware or the operating system, adaptation to the scope of functionalities of products offered by competitors, or establishing compatibility with new data formats.
- (3) Liability for damages for defects, regardless of fault, that were already present at the time of concluding the contract is excluded.
- (4) The Customer will support the Contractor in identifying defects and their remedial and will immediately ensure access to documents that reveal the detailed circumstances of the defect's occurrence.

§ 21 Term of the Contract; Termination; Return

- (1) The Software shall initially be provided for a fixed term of 12 months. Thereafter, the term of the contract shall be automatically extended for a further 12 months, unless this lease relationship is terminated by one of the Parties as of the end of the respective term of the contract with a notice period of 3 months. The start date of the contract will be specified in the order confirmation.
- (2) This does not affect the right of both Parties to terminate the Contract without notice and with immediate effect for a compelling reason. A compelling reason shall be deemed to exist in particular if we or the Customer intentionally or negligently breach a material obligation under the special terms and conditions for the lease of the Software and the terminating party can therefore no longer be reasonably expected to adhere to the contract.
- (3) The termination of the contract must be in writing, whereas termination by e-mail fulfils this requirement. Decisive for the effectiveness of the termination is its timely receipt.
- (4) After termination of the contract, the Customer shall cease using the Software and destroy the backup copies made, uninstall the Software, and delete any recognisable software leftovers from

the IT system. At our request, the Customer shall confirm the fulfilment of the aforementioned obligations in writing.

D. Special Part concerning the Provision of Documents and Drawings

§ 22 Subject Matter of the Contract – Provision of Drawings

As part of the contract to be concluded between the Parties, the Customer may be provided with documents, drawings and instructions with the aid of which he can build, among other things, tools, the details of which are set out in the order confirmation.

§ 23 Rights to the Drawings and Other Documents

- (1) We reserve the ownership or copyright to all proposals and cost estimates submitted as well as all drawings, illustrations, calculations, instructions, brochures, catalogues, models, tools and other documents and auxiliary tools made available to the Customer.
- (2) The Customer may not make these items or the content thereof available to any third party, disclose them or use or reproduce or allow any third party to use or reproduce them without our explicit approval. At our request, the Customer shall return these items in their entirety and destroy all copies thereof, if any, in case these items are no longer required by the Customer in the ordinary course of business or if the negotiations do not lead to the conclusion of a contract. This does not apply to the storage of data provided electronically for the purposes of taking standard data backup measures.
- (3) In deviation from clauses 1 and 2, the Customer has the right to produce auxiliary tools according to the instructions in the supplied drawings. Otherwise, clauses 1 and 2 continue to apply.

§ 24 Rights to the Produced Auxiliary Tools

- (1) The Customer may use the auxiliary tools produced based on the drawings only for its own purposes meeting the contractual purpose.
- (2) The Customer may not sell, donate, lend, sub-rent or lease the produced auxiliary tools to any third parties.

E. Special Part concerning Services

§ 25 Subject Matter of the Contract – Services

- (1) As part of the contract to be concluded between the Parties, the Customer may make use of services provided by Axios 3D.
- (2) The services include, for example, the performance of preliminary tests, the calibration of the cameras, support in obtaining approval from third parties, the service for the calibration and the storage of the calibration data in the Software.

§ 26 Customer's Duty to Cooperate

- (1) The Customer shall ensure that all measures that are taken as part of the Customer's duty to cooperate and are necessary for the provision of the agreed service are provided in a timely manner, in full, and free of charge for us. All measures to be taken by the Customer are a prerequisite for the contractual provision of services by us. If the Customer fails to take the measures or does not take them in a timely manner, any costs resulting from the related increases in fees or postponements of deadlines shall be borne by the Customer.
- (2) The Customer shall grant the Contractor access required for the proper performance of services during business hours and shall provide the necessary technical facilities and data links. In urgent matters, the Customer shall ensure access even beyond normal business hours.

§ 27 Fee

A fee shall be payable for the provision of the services, which shall be set out in the proposal letter.

§ 28 Warranty

- (1) Axios 3D warrants that the services are free from defects and third party rights.
- (2) Claims for curing defects shall become statute-barred within 12 months, except in cases in which Axios 3D acts intentionally.