



## **AIRROBOT'S GENERAL TERMS OF SALE**

### **1. General Scope**

These General Terms of Sale (these "Terms") shall exclusively apply to all sales, deliveries and services to the Customers (jointly the "Customers" and each, individually, "Customer") of AirRobot GmbH & Co. KG ("AirRobot"). Any additional or different terms or conditions contained in the Customer's order or response hereto shall be deemed objected to by AirRobot and shall be of no effect. No general terms and conditions of the Customer shall at any time form a part of the content of any contract or agreement between the Customer and AirRobot, even if they are not further expressly rejected by AirRobot. The invalidity or unenforceability of any of the Clauses contained herein shall not affect the validity or enforceability of the remaining Clauses.

### **2. Order and Order Confirmation; Conclusion of Contract**

- 2.1. Orders may be placed with AirRobot by telephone or in writing (e-mail, fax). No order is binding upon AirRobot until acceptance of the order in writing by AirRobot. AirRobot may accept orders within 14 days upon receipt of the respective order. Notwithstanding any prior acceptance of an order by AirRobot, AirRobot shall have no obligation to deliver Products if the Customer is in breach of any of its obligations hereunder, or any other agreement between the Customer and AirRobot, at the time AirRobot's performance was due. Changes to the scope of an order require written confirmation by AirRobot and are only possible if the respective order has not yet entered production. Orders from and deliveries to private persons are excluded.
- 2.2. AirRobot reserves full title of ownership or copyrights related to documents, estimates and calculations of prices, samples, drawings, photos, pictures, brochures, and catalogues made available to the Customer. The Customer may not give any third party access to those items or otherwise publish or copy their content without having obtained AirRobot's prior written consent.



### **3. Prices**

- 3.1. In the absence of any provision to the contrary contained in the order confirmation, all prices quoted are stated “**ex Works**” (Incoterms 2000) excluding packaging, transport, delivery, assembly, and other costs.
- 3.2. Prices in brochures or catalogues are not binding until confirmed in writing by AirRobot.

### **4. Terms of Payment**

Unless otherwise agreed to in writing between AirRobot and the Customer, payment is due prior to delivery upon Customer’s receipt of the order confirmation. Payment must be effected without offset, deduction or counterclaim regardless of any claim by the Customer, unless such claims are either undisputed by AirRobot or are confirmed by a binding court decision.

### **5. Delivery**

- 5.1. The Customer acknowledges that all envisaged shipping and delivery dates or periods are tentative unless a specific delivery date is expressly confirmed by AirRobot in writing. Nevertheless, AirRobot shall at all times use reasonable commercial efforts to meet all shipping and delivery dates. All Products are sold and delivered “**ex works**” (Incoterms 2000) at AirRobot’s facility in Arnsberg, Germany.
- 5.2. Delivery is subject to the absence of unforeseen hindrances which are beyond AirRobot’s control. Force majeure, operational faults, strikes or other hindrances, for which AirRobot is not responsible, at AirRobot’s premises or those of its suppliers, shall release AirRobot from the delivery obligation for the duration of the disturbance and its effects. Additionally, AirRobot shall be entitled to withdraw from the contract in the event that any of the hindrance described herein exceeds a period of 6 months and no claims for damages may be brought by the Customer in the event of such withdrawal.



- 5.3. If Customer wrongfully rejects or revokes acceptance of the Products or fails to make payment due on or before delivery, or repudiates all or part of the contract for the Products shipped, AirRobot may withhold delivery, or stop delivery of the Products, cancel any or all contracts with the Customer and/or claim damages at AirRobot's exclusive option.
- 5.4. Unless otherwise agreed in writing and to a reasonable extent only, AirRobot reserves the right to make partial deliveries and to submit invoices for partial deliveries.
- 5.5. AirRobot reserves the right to make changes and modifications to the Products at any time. Delivery of such changed or modified Products shall be permitted to the extent that the changes and modifications have no material impact on the nature and use of the Products.

## **6. Place of Delivery; Transportation; Transfer of Risk**

- 6.1. The risk of accidental destruction of and/or damage to the Products passes over to the Customer at the earlier of the following:
  - when the Products are handed over to the carrier at AirRobot's facility in Arnsberg, Germany, or
  - on the agreed date of delivery, if the Customer fails to accept delivery as provided for in the Contract.

This also applies if partial deliveries are made or if AirRobot undertakes other services, e.g. dispatch or transportation. Transportation shall be exclusively at the Customer's expense and risk. AirRobot shall not be liable for any costs of transportation including without limitation, charges incurred at the point of destination such as pier loading charges, storage, demurrage, etc.



- 6.2. If dispatch is delayed as a result of circumstances for which the Customer is responsible, the risk passes to the Customer on the date of readiness for dispatch. In these cases AirRobot may store the goods at the Customer's expense and is then entitled to damages charged as a lump sum to the Customer amounting to 1 % per month of the invoice amount for the stored Products, provided however, that the Customer may bring proof that the damages incurred by AirRobot are substantially less than the lump sum charged.
- 6.3. Insurance for the Products during transport shall be the sole responsibility of the Customer.
- 6.4. AirRobot shall select the packaging and method of dispatch at its sole discretion.

## **7. Taxes; Export Regulations**

- 7.1. The amount of any sales, use or other tax or duty, however designated, levied or based on the price of the Products and payable or required to be collected by AirRobot shall be added to the price quoted and billed to and paid by the Customer as if originally included herein. Should Customer wish to claim an exemption from such tax or duty Customer shall provide AirRobot with appropriate exemption certificates or other documents acceptable to AirRobot in its sole discretion.
- 7.2. The Customer must comply with all regulations issued by the Bundesamt fuer Wirtschaft und Ausfuhrkontrolle ("BAFA" – German Federal Office of Economics and Export). His obligations include, but are not limited to, to advise his customers of any restrictions regarding the sale of the Products which may result from such regulations.



## **8. Reservation of title**

AirRobot reserves the right of ownership of the delivered Products, until the Customer has settled all monies outstanding from its business relationship with AirRobot. The reservation of title shall be effective up until complete exemption from contingent liabilities (e.g. in the case of extended payment by check or draft), which AirRobot may have entered into in the Customer's interest.

## **9. Proprietary Rights**

AirRobot shall be liable for the absence of third party rights based on industrial or other intellectual property, in accordance with applicable law, only with respect to any infringements in the Federal Republic of Germany. AirRobot represents, however, that it is not aware (without having made any specific inquiry) of any infringements of such rights in other countries.

## **10. Product Warranty**

- 10.1. AirRobot warrants that at the time of delivery all Products and spare parts are:
  - (a) manufactured by AirRobot as described in AirRobot's published product information that applies at the date of purchase, and
  - (b) substantially free from defects in materials or workmanship.
- 10.2. The warranty period is one year from the date of delivery.
- 10.3. The warranty is subject to the proper storage, transportation, assembly, use, and absence of any modification, or alteration of the Products.



- 10.4. The Customer shall inspect the delivered Products immediately on receipt with respect to damages caused by transportation and shall inform the delivering freight carrier immediately on site about any visible transport damages. Additionally, the Customer shall inform AirRobot immediately in writing, at the latest within 5 work days upon receipt of the Products, about any visible transport damages. If the Customer does not comply with this obligation, the delivered Products shall be deemed approved with respect to transport damages. In the event of hidden defects, the Customer shall notify AirRobot in writing within 5 work days upon the discovery of the defect giving rise to the claim.
- 10.5. In the event of a breach of warranty under this Clause, AirRobot at its sole discretion is obliged to either replace or repair the respective Product. AirRobot's liability for damages resulting from such breach of warranty shall be limited as more detailed set forth in Clause 11.
- 10.6. Upon request from AirRobot, the Customer shall send the allegedly defective Product free of transportation charges to AirRobot's facility. AirRobot shall then ship the replaced or the repaired Product at its cost to the Customer within a reasonable period of time not to exceed 6 weeks upon receipt of the defective Product.
- 10.7. Unless expressly warranted in AirRobot's order confirmation, AirRobot makes no warranty that the Products comply with applicable law, regulations or specifications in any jurisdiction in which the Products may be sold or marketed. Any governmental or other approvals necessary in connection with the resale, marketing, distribution or use of the Products shall be the sole responsibility of the Customer.



## **11. Limitation of Liability**

- 11.1. Except as otherwise expressly set forth herein, AirRobot's liability for breach of contract or breach of ancillary obligations is limited to the statutory liability.
- 11.2. Absent its gross negligence or willful misconduct, AirRobot shall not be liable for damages arising out of or in connection with any Products except for
  - a) damages resulting from death, personal injury or damage to health, or
  - b) damages resulting from the breach of a material obligation under the contract with the Customer, provided, however, that in such event, AirRobot's liability is limited to the predictable average damages typical for this kind of contract.
- 11.3. The aforementioned limitations shall not apply with regard to deficiencies which were concealed with malice aforethought by AirRobot or with regard to a specific quality of the Products for which AirRobot has assumed an independent guarantee. The limitations shall furthermore not apply to product liability claims.

## **12. Miscellaneous**

- 12.1. These Terms and all claims arising out of or related to these Terms shall be governed by and construed in accordance with the laws of Germany without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than Germany and without giving effect to the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 12.2. All disputes related to or resulting from these Terms shall be submitted exclusively to the courts of competent jurisdiction in Arnsberg, Germany.



- 12.3. If any provision contained in these Terms is held by final judgment of a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable provision shall be severed from the remainder of these Terms, and the remainder of these Terms shall be enforced.
- 12.4. In the event of a violation or threatened violation of AirRobot's proprietary rights, AirRobot shall have the right, in addition to such other remedies as may be available pursuant to law or these Terms, to temporary or permanent injunctive relief enjoining such act or threatened act. The parties acknowledge and agree that legal remedies for such violations or threatened violations are inadequate and that AirRobot would suffer irreparable harm.
- 12.5. The Customer may not assign its order or any right or interest therein or any other obligation arising hereunder without the prior written consent of AirRobot.
- 12.6. The waiver by AirRobot of any breach or violation of these Terms by the Customer shall not be construed as a waiver of any other existing or future breach or breaches by the Customer.
- 12.7. The parties hereto are independent contractors and nothing in these Terms will be construed as creating a joint venture, partnership, employment or agency relationship between the parties.
- 12.8. These Terms shall apply to all sales of Products to the Customer and shall survive the termination or cancellation of any other agreements, including but not limited to supply agreements, between AirRobot and the Customer.