

## General Terms and Conditions of Sale and Delivery of Scienlab electronic systems GmbH

Applicable to business transactions with companies, legal entities under public law and special assets public under law;

Date: October 2012

### 1. General

All offers, deliveries and services of Scienlab electronic systems GmbH (hereinafter referred to as "Scienlab") shall be exclusively subject to the general terms and conditions below. These terms and conditions shall also apply to all future legal transactions, in particular supplementary or follow-up orders, even if not expressly referred to again. Conflicting terms and conditions of business that differ from or supplement the terms and conditions below shall only be valid with the written consent of Scienlab. The execution of customer orders without reservation shall not constitute consent, even in the knowledge of conditions that conflict with or differ from the terms and conditions of business below.

### 2. Offers, conclusion of the contract and contract modifications

- a) Contracts with Scienlab and modifications and amendments thereto – including these general terms and conditions – must be made in writing. Verbal agreements of any kind must be confirmed in writing by Scienlab in order to be valid. The written form requirement may also be met by remote data transmission (especially email) or fax.
- b) For the content and scope of the contractual obligations the written order confirmation of Scienlab is decisive, in the event of an offer by Scienlab this is decisive, provided that it is accepted and there is no order confirmation. Services ordered by the customer that are not covered by the original order, are to be compensated adequately, lacking an agreement on wage pay. This especially applies to the performance of any service within a shorter timeframe requested by the customer following the conclusion of a contract.
- c) Any information on Scienlab products and services obtained from cost estimates, catalogs, price lists, brochures, advertisements on exhibition stands or other media (information materials) is only binding if expressly agreed in writing.
- d) Scienlab reserves the right to technically required changes to production, deviations in dimensions or weights, etc., provided that these are reasonable for the ordering party, in particular where changes and/or deviations that preserve or enhance value are concerned. These changes/deviations shall be deemed as approved. The same shall apply to subsequent deliveries.
- e) The quantities, weights and dimensions determined by Scienlab at the time of the incoming goods inspection shall be decisive.

### 3. Delivery/order, deadlines

- a) A commitment period of 2 weeks shall apply to orders by Scienlab. If the supplier does not accept the order within this period, Scienlab shall be entitled to cancel the order.
- b) Unless otherwise expressly agreed in writing, Scienlab shall accept no liability for meeting delivery periods and deadlines. Delivery times are non-binding in any case.
- c) A contractually agreed delivery period begins when the order confirmation is sent, in the case of an offer from Scienlab at the time of its acceptance, although not before the customer has provided the necessary documents and performed any required cooperative actions, and not before any partial payment has been agreed in writing. If Scienlab is responsible for the contractually agreed delivery period not being complied with, the customer shall stipulate a reasonable deadline for subsequent delivery. If the delivery is not executed within this period, the customer is entitled to withdraw from the contract, to the exclusion of any claims for damage.
- d) Agreed delivery periods shall be extended by a reasonable period of time in the event of agreed modifications or amendments after the order has been placed and in the event of measures within the context of lawful labor disputes or the occurrence of unforeseeable obstacles that are

beyond control of Scienlab (e.g. shortages of material, energy, labor or transportation capacity, production disturbances, traffic disturbances, official regulations, etc.), in so far as such obstacles demonstrably have a considerable influence on the delivery of the item. The same shall apply if these occur with a sub-supplier or preliminary supplier. Scienlab shall not be liable for the aforementioned circumstances even if they occur during an already existing delay, provided that the delay is not the result of willful intent or gross negligence. Scienlab shall notify the ordering party of the beginning and end of such obstacles as soon as possible in important cases. If a supplier foresees difficulties with regard to manufacturing, the supply of primary materials, meeting the delivery deadline or similar circumstances that may prevent timely delivery or delivery of the quality agreed upon, the supplier shall immediately notify Scienlab of this.

- e) Scienlab's unconditional acceptance of the delayed delivery or performance shall not constitute a waiver of Scienlab's compensation claims due to the delayed delivery or performance; this shall apply until the complete payment of the remuneration owed by Scienlab for the delivery or service concerned.
- f) Any shortening of delivery deadlines agreed upon with the customer after the order is confirmed shall constitute a contract amendment. Any additional costs caused by this, such as for overtime and/or for accelerating the procurement of materials, shall be borne by the customer.
- g) Partial deliveries and service provisions by Scienlab that are objectively justifiable and reasonable for the customer are permissible and can be invoiced separately.
- h) Partial deliveries to Scienlab are generally not permissible, unless Scienlab has given its express approval or they are reasonable for Scienlab.

### 4. Dispatch and transfer of risk

- a) All deliveries by Scienlab shall generally be made at the expense and risk of the customer (EXW according to INCOTERMS 2010). Transport insurance shall only be arranged at the request of the customer and at the customer's expense.
- b) Charges for orders made by Scienlab shall be understood, unless otherwise agreed, as delivered to the named place (DAP according to Incoterms 2010), including packaging. This does not include value added tax. The supplier shall bear the risk of material damage until the goods are received by Scienlab or by Scienlab's representative at the place of delivery specified in the order.
- c) If a supplier has agreed to carry out installation or assembly, he shall bear, subject to any differing regulations, all necessary ancillary costs, such as travel expenses, provision of tools and daily allowances.

### 5. Prices, terms of payment and default of payment

- a) The prices specified by Scienlab in offers are stated as net prices in Euro ex headquarters in Bochum plus the value added tax applicable on the invoicing day. The same shall apply to continuing obligations, unless otherwise agreed in writing by the contracting parties.
- b) In the event of significant costs shifts, Scienlab reserves the right to adjust the prices, provided that no goods or services that are to be delivered or performed within four months of the conclusion of the contract are concerned. In the event of a price increase, Scienlab must notify the customer of this in writing within a reasonable time before delivery. In this case, the customer is entitled to withdraw from the purchase contract within one week after receipt of this notification.
- c) Invoices are to be paid without any deduction within 10 days of receipt of the invoice. Payment shall only be deemed made when Scienlab has the invoiced amount at its disposal. Payments by check shall only be

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deemed made when Scienlab's account has been credited. Scienlab reserves the right to charge interest on overdue amounts. The interest rate shall be based on the base interest rate plus 8 % per year.

### 6. Retention of title

- a) The delivered goods remain the property of Scienlab until the complete fulfillment of all obligations arising from the business relationship. The same shall apply in the event that the goods are processed. If the delivery includes a study, the results documented in the study may not be used or disclosed to third parties and remain unequivocally the intellectual property of Scienlab until the complete fulfillment of all obligations arising from the business relationship. The customer may only resell the reserved goods in the normal course of business and if he is not in default of payment. The customer shall not be entitled to dispose of the reserved goods in any other way, in particular transfer by way of security or pledging. The customer assigns to Scienlab, up to the amounts payable, all rights arising from resale or processing as security. Any third party access to the reserved goods or to claims assigned in advance must be reported to Scienlab immediately. All intervention costs incurred by Scienlab as a result of pledging or third party access will be borne by the customer.
- b) The provisions in No. 6 a) also apply to goods provided by Scienlab. These may only be used for their intended purpose; any assembly of parts is carried out for Scienlab. The parties agree that, in a ratio of the value of the materials provided to the value of the product as a whole, Scienlab shall be co-owner of the finished products that are produced using goods delivered by Scienlab and that have been kept for Scienlab by the supplier.

### 7. Warranty and liability

- a) The customer shall examine the goods for completeness, transport damage, obvious defects, their condition and properties. The customer must report obvious defects to Scienlab in writing immediately, at the latest within 2 weeks of the delivery of the contractual object. Costs incurred by Scienlab as a result of a defective delivery, in particular transport, travel, labor and material costs or costs for an incoming goods inspection exceeding the usual scope shall be borne by the supplier.
- b) If the customer's technical installations, such as supply lines, wiring, networks, etc. are not technically faultless and operational or are not compatible with the delivered objects, this shall not constitute a defect.
- c) Scienlab is not obliged to assume warranty if the customer has not reported a defect in writing in time. If a defect, for which Scienlab is responsible, is discovered on the contractual object and the defect has been reported in writing in time, Scienlab is obliged to supplementary performance unless Scienlab can refuse this due to the impossibility or disproportionate nature of rectifying the defect. In the event of supplementary performance, the customer must grant Scienlab a reasonable amount of time for each individual defect.
- d) If contractual objects are produced on the basis of information, drawings, plans, models or other specifications provided by the customer, Scienlab's liability shall be limited to performance in accordance with the agreed terms. The customer particularly guarantees that no property rights of third parties are violated by the production of these contractual objects. No. 7 k) shall apply accordingly.
- e) In the event of an alleged defect on a contractual object delivered by Scienlab, Scienlab is entitled to arrange, or have arranged, any examination deemed necessary, even if this causes these goods or components to be rendered unusable. If the claim of a defect proves to be unjustified as a result of the examination, the customer is obliged to reimburse Scienlab for the expenses incurred in order to ascertain the lack of defects or to rectify the defect.

- f) Both in the case of deliveries to and by Scienlab, supplementary performance may be performed, at the discretion of Scienlab, either by rectifying the defect or by delivering a new contractual object. The supplementary performance shall be deemed failed following the second unsuccessful attempt.
- g) The customer cannot assert claims for damage relating to the following conditions due to the defect until the supplementary performance has failed or Scienlab has groundlessly refused supplementary performance. When claims for damages are asserted, there shall be no liability for indirect damages, consequential damages or loss of profit, unless liability is justified by willful intent, gross negligence or lack of a guaranteed quality.
- h) Notwithstanding the preceding and the following limitations of liability, Scienlab shall be liable for damage to life, body and health attributable to the negligent or intentional breach of duty on the part of Scienlab, its legal representatives or its vicarious agents, as well as for damages covered by liability under the German Product Liability Act, and damages due to willful or grossly negligent breaches of contract on the part of Scienlab, its legal representatives or its vicarious agents. Scienlab shall only be liable for damages that are due to the lack of a guaranteed property or durability but do not occur directly on the contractual object, if the risk of such damages is clearly included in the guarantee of quality and durability on the basis of a written agreement.
- i) Scienlab shall also be liable for damages caused by ordinary negligence, insofar as this negligence relates to the violation of such contractual obligations, the observance of which is of particular significance for achieving the purpose of the contract (cardinal duties). However, Scienlab shall only be liable if the damages are typically related to the contract and are foreseeable. However, liability for indirect damages, consequential damages or loss of profit is excluded. Moreover, Scienlab shall not be liable in case of simple, negligent violations of non-essential, ancillary contractual duties.
- j) Any further liability is excluded, irrespective of the legal nature of the asserted claim. To the extent that the liability of Scienlab is excluded or limited, this shall also apply to the personal liability of its legal representatives, workers, employees, representatives or vicarious agents.
- k) In case of defects of title for which the supplier is responsible, the supplier shall indemnify Scienlab against any third-party claims.
- l) Unless otherwise agreed, the warranty period shall be one year following delivery of the goods. The same shall apply to all claims under the German Product Liability Act.

### 8. Product liability

- a) If and insofar as product liability claims are asserted against Scienlab due to a defect on a delivery item, for which a supplier is responsible, the supplier is obliged to indemnify Scienlab against such claims. If the cause of the damage lies within the supplier's scope of responsibility, the supplier shall bear the burden of proof regarding the faultlessness of the delivery item.
- b) In cases specified under No. 8 a), the supplier shall assume all costs and expenses, including the costs of any legal action.
- c) Before any recall action, which is fully or partially the result of a defect on a contractual object delivered to Scienlab, Scienlab shall inform the supplier, give him an opportunity to cooperate and discuss with him the efficient execution of the recall action, unless it is not possible to inform or involve the supplier because of particular urgency. If a recall action is due to a defect on the contractual object delivered to Scienlab, the supplier shall bear the costs of the recall action.

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### 9. Extraordinary termination/withdrawal

- a) Beyond its statutory rights of withdrawal, Scienlab is entitled to withdraw from or terminate the contract with immediate effect if
  - a supplier has ceased delivery to its customers,
  - the financial situation of a supplier deteriorates substantially, or threatens to do so, and this jeopardizes the suppliers ability to fulfill its contractual obligations to Scienlab,
  - it arises that a supplier is insolvent or over-indebted, or
  - a supplier ceases payment.
- b) Scienlab is also entitled to withdraw from or terminate the contract if a supplier or third party initiates insolvency proceedings or similar debt settlement proceedings.
- c) If a supplier makes a partial delivery, Scienlab is only entitled to withdraw from the whole contract if Scienlab has no interest in the partial delivery.
- d) If Scienlab withdraws from or terminates the contract on the basis of the provisions above, the supplier shall compensate Scienlab for the resulting damages, unless the supplier is not responsible for the application of the rights of withdrawal and termination.

### 10. Export regulations and customs clearance

- a) The supplier is obliged to inform Scienlab of any permit requirements for (re-)exports of its goods according to the relevant export and customs regulations of the country of origin of its goods by including them in its business documentation. For this purpose, the supplier shall, at least in his offers, order confirmations and invoices for the relevant goods, provide the following information:
  - the export list number according to annex AL of the German Foreign Trade Ordinance or comparable list items in relevant export lists,
  - for US goods, the ECCN (Export Control Classification Number) according to the US Export Administration Regulations (EAR),
  - the trade-policy place of origin of its goods and components thereof, including technology and software,
  - whether the goods were transported through the USA, manufactured or stored in the USA, or manufactured using US technology,
  - the commodity code (HS code) of its goods, and
  - a contact person in its organization to provide clarification in the event of any queries from Scienlab.
- b) At the request of Scienlab, the supplier is obliged to inform Scienlab in writing of all further external trade details for its goods and their contents, and to immediately (prior to the delivery of the relevant affected goods) inform Scienlab in writing of all changes to the above data.
- c) In any case involving exports, the customer must check whether the delivered device complies with the statutory technical and safety regulations of the respective country. In case of doubt, a written statement must be requested from Scienlab subject to cost. If, at the request of the customer, deliveries are duty unpaid, the customer shall be liable for any subsequent claims from the customs administration.

### 11. Confidentiality

- a) All business or technical information (including features of any delivered items, documents or software, and any other know-how or experience) made available by Scienlab must, as long as and insofar as they are not demonstrably public knowledge, not be disclosed to third parties and may only be made available to persons within the supplier's company (including subsidiaries or affiliates) who must necessarily use such information for the purpose of the delivery to Scienlab and who are also

bound to secrecy; such information shall remain the property of Scienlab. Such information may not be duplicated or used for commercial purposes – with the exception of deliveries to Scienlab – without the prior written approval of Scienlab. At the request of Scienlab, all information originating from Scienlab (if applicable including copies or records made) and items provided on loan shall be returned to Scienlab immediately and in full or destroyed.

- b) Scienlab reserves all rights to such information (including copyrights and the right to register intellectual property rights such as patents, utility models, semiconductor protection, etc.). If this information was made available to Scienlab by third parties, this reservation of rights shall also apply to the benefit of these third parties.

### 12. Industrial property/patent rights and copyrights

- a) Delivery items and associated design documents, plans, sketches, cost estimates and other documentation, as well as software, that are provided by Scienlab or have come into being due to the contribution of Scienlab shall remain the intellectual property of Scienlab. The usage of patent rights and copyrights by the customer requires a separate written agreement.
- b) Scienlab has the right to use software that is included within the scope of products delivered to Scienlab with the agreed performance features and to the extent required to use the product as intended (section 69a et seq. of the Copyright Act, UrhG). Scienlab may also make a back-up copy without express agreement.

### 13. Miscellaneous

The place of performance is Bochum. The place of jurisdiction for all contractual disputes and disputes related to the concluded contract is Bochum. Scienlab is also entitled to assert claims at any other place of jurisdiction justified for the customer. All contractual relationships with Scienlab shall be governed exclusively by German law, excluding the conflict of laws provisions and the UN sales convention (CISG). Should one or more of the provisions of these general terms and conditions of business become invalid, all other provisions shall remain unaffected thereby.