

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

1 Scope of application

All offers, deliveries and services of ACLARIS GmbH - Zweigniederlassung Rebstein, Switzerland (ACLARIS) are made exclusively on the basis of these General Terms and Conditions of Sale and Delivery (Terms and Conditions of Sale). These are an integral part of all contracts that ACLARIS concludes with its contractual partners (customers) for the deliveries and services offered by ACLARIS. They shall also apply to all future offers, deliveries and services.

1.2 General terms and conditions of customers or third parties shall not apply, even if ACLARIS does not separately object to their validity in individual cases. General terms and conditions of the customer or a third party shall only become part of the contract if ACLARIS has expressly agreed to them.

1.3 These Terms and Conditions of Sale do not apply to natural persons who conclude a contract for a purpose that cannot be attributed to their professional or commercial activity (consumers).

2 Offer and conclusion of contract

2.1 Offers made by ACLARIS are subject to change and non-binding unless they are expressly marked as binding. The customer shall be bound by its orders for two weeks from receipt by ACLARIS. The contract shall only come into effect upon confirmation of the order by ACLARIS. If the delivery or service is carried out by ACLARIS without the customer receiving prior confirmation, the contract shall come into effect upon acceptance of the delivery or service.

2.2 Minor technical and/or visual deviations from the description of the delivery item within the offer are possible and do not affect the fulfillment of the contract, unless the deviations are unreasonable for the customer. This applies in particular to insignificant deviations in models, dimensions, colors as well as in the case of changes and improvements to adapt to the latest state of the art and to comply with legal requirements.

3 Transfer of risk and insurance

3.1 Deliveries by ACLARIS shall always be made Ex Works (EXW) Güll external warehouse in Lindau (Incoterms 2020). At the customer's request and expense, the delivery will be sent to another destination. Unless otherwise agreed, ACLARIS shall then be entitled to determine the type of shipment itself.

3.2 The risk of accidental loss and accidental deterioration shall pass to the customer when the goods are made available Ex Works at the external warehouse in Lindau. If the goods are shipped at the customer's request, the risk of accidental loss and accidental deterioration shall pass to the customer when the goods are handed over to the forwarding agent, carrier or other person designated to carry out the shipment.

3.3 The goods shall only be insured by ACLARIS against theft, breakage, transport, fire and water damage or other insurable risks upon dispatch at the express request of the customer and at the customer's expense. Insurance or any assumption of transportation costs by ACLARIS shall have no influence on the transfer of risk.

4 Deadlines, obligations to cooperate and force majeure

4.1 Deadlines and dates for deliveries and services promised by ACLARIS shall always only be approximate, unless a binding deadline or a binding date has been expressly promised or agreed in writing (expiry date transaction). If shipment by ACLARIS has been agreed, delivery periods and delivery dates shall refer to the time of handover to the forwarding agent, carrier or other third party commissioned with transportation, unless expressly stated otherwise by ACLARIS.

4.2 ACLARIS shall be entitled to make partial deliveries and render partial services. This does not apply if this is unreasonable for the customer.

4.3 ACLARIS shall only be in default if the service is due, the Customer has unsuccessfully set a reasonable, written grace period (generally at least 14 days) and ACLARIS is responsible for the delay.

4.4 If ACLARIS's performance obligations require the Customer to cooperate, in particular by providing information, documents and materials or other services, the Customer shall be responsible for the timely performance of these cooperative acts. If the customer fails to cooperate or fails to do so in good time, it shall be responsible for any resulting delay. Agreed delivery times shall be extended by at least the period of the delay in the acts of cooperation. Further claims by ACLARIS shall remain unaffected by this.

4.5 In the event of unforeseen obstacles to delivery beyond the control of ACLARIS (e.g. operational disruptions for which ACLARIS is not responsible due to water, fire, catastrophes, accidents, breakdown of production facilities and machinery, interruptions of operations due to epidemics or pandemics or due to legal or official orders, lack of materials, energy, transportation facilities, etc.), the delivery date shall be extended by the duration of such obstacles, regardless of whether they occur at ACLARIS or its subcontractors or suppliers, regardless of whether these occur at ACLARIS or its upstream suppliers or subcontractors), the delivery date shall be extended by the duration of such hindrances. ACLARIS may withdraw from the contract without compensation if the delay in delivery caused by such events lasts longer than six weeks, the resumption of the ability to perform is not foreseeable and ACLARIS has informed the Customer of this immediately. In this case, any payments already made by the customer will be refunded immediately. Any further claims by the customer (e.g. for damages, consequential damages, inconvenience, emotional or material harm suffered) are expressly excluded for matters contained in this clause 4.5.

4.6 If ACLARIS proves that ACLARIS is not supplied on time by its suppliers despite careful selection of its suppliers and despite conclusion of the necessary contracts on reasonable terms, the delivery period shall be extended by the period of delay caused by the failure of the suppliers to deliver on time. In the event of impossibility of delivery by the supplier, ACLARIS shall be entitled to withdraw from the contract. In this case, ACLARIS shall inform the Customer immediately of the impossibility and reimburse any payments already made without delay.

5 Default of acceptance

5.1 If dispatch or handover is delayed as a result of a circumstance caused by the customer, the risk of accidental loss and accidental deterioration of the goods shall pass to the customer from the day on which the delivery item is ready for collection or dispatch and ACLARIS has notified the customer of this, notwithstanding Clause 3.2.

5.2 In the event of default of acceptance, the Customer shall pay ACLARIS 0.25% of the order amount (net price of the goods) as storage costs for each week of default of acceptance. This shall not affect the Customer's right to prove lower storage costs to ACLARIS. ACLARIS shall be entitled to claim additional and higher costs or damages (compensation).

6 Prices and payment

6.1 Unless otherwise specified in the offer, all prices are "ex works", excluding transportation, packaging, insurance and customs duties. The statutory VAT is not included in the prices and will be shown separately on the invoice at the applicable rate. Any transportation, packaging and other costs shall be invoiced separately by ACLARIS.

6.2 The deduction of a cash discount is only permitted by special written agreement.

6.3 Unless a special written agreement has been made, the invoice amount (without deduction) is due for payment within 30 days of the invoice date.

6.4 In the event of late payment, default interest of 9% shall be payable. ACLARIS reserves the right to prove and claim higher damages caused by delay.

6.5 If the customer is in default with the payment of an invoice, all its liabilities to ACLARIS shall become due immediately and without separate notification by ACLARIS; this shall also apply to the balance of any current account maintained for the customer.

6.6 The Customer may exercise rights of retention and set-off if its counterclaims have been legally established, are undisputed or have been recognized by ACLARIS.

7 Retention of title

7.1 The goods delivered by ACLARIS shall remain the property of ACLARIS until all present and future liabilities of the Customer to ACLARIS arising from the current business relationship have been met in full (reserved goods). This also applies if payments have been made for claims specifically designated by the customer.

7.2 The retention of title regulated in this clause 7 shall be governed by the law of the country of destination to which the goods are to be delivered.

7.3 In the event of default in payment, a breach of the Customer's obligations under this clause 7 or any other kind of threat to the claims of ACLARIS secured in accordance with the preceding paragraph from the Customer's sphere of risk, including a significant deterioration in the Customer's financial circumstances (security event), the Customer shall be obliged to return the reserved goods to ACLARIS upon first request.

7.4 The customer is obliged to store the reserved goods separately and to mark them in such a way that they can be identified and reclaimed, for example in the event of the customer's insolvency. If the goods are intended for a customer who has its registered office or location in Switzerland, the customer is obliged to label the reserved goods as "Property of ACLARIS GmbH - Zweigniederlassung Rebstein, Switzerland". The customer is also obliged to inform the debt enforcement or bankruptcy office that the goods subject to retention of title are not his property and therefore do not form part of the customer's bankruptcy estate. The customer is furthermore obliged to counteract any detention of the goods to the best of his ability.

7.5 The customer is entitled to resell or use the goods subject to retention of title in the ordinary course of business until a security event occurs.

7.6 The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Customer shall notify ACLARIS immediately in writing if an application for the opening of insolvency proceedings (e.g. application for attachment, for the opening of bankruptcy proceedings, for a moratorium, emergency moratorium or proceedings with similar effect) has been filed or if third parties have seized the goods subject to retention of title (e.g. attachments).

7.7 The retention of title shall extend to the full value of the products created by processing, mixing or combining the goods subject to retention of title, whereby ACLARIS shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, ACLARIS shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods.

7.8 The Customer hereby assigns to ACLARIS by way of security any claims against third parties arising from the resale of the goods subject to retention of title or the product in total or in the amount of a co-ownership share to which ACLARIS is entitled in accordance with the preceding paragraph. ACLARIS accepts the assignment.

7.9 The customer shall remain authorized to collect the assigned claims even after the assignment. The right of ACLARIS to collect the claims itself shall remain unaffected by this. However, ACLARIS undertakes not to collect the claim as long as no security case exists. If this is the case, however, ACLARIS may demand that the Customer discloses the assigned claims and their debtors, provides all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment.

7.10 If the realizable value of the securities exceeds the secured claims of ACLARIS by more than 10%, ACLARIS shall release securities of ACLARIS's choice at the Customer's request.

8 Warranty, obligation to inspect and give notice of defects

8.1 ACLARIS shall be liable for proven material defects existing at the time of the transfer of risk. Liability for material defects vis-à-vis the Customer shall be effected by means of replacement performance in such a way that ACLARIS shall, at its own discretion, repair the defective item or deliver a new item free of defects (replacement performance). If the replacement service fails, the customer shall be entitled to demand a reduction in the purchase price (reduction) or rescission of the contract (rescission) in accordance with the statutory provisions. A replacement service shall be deemed to have failed if it has been attempted several times without success and the customer cannot reasonably be expected to make a further attempt.

8.2 The customer must inspect the delivery items upon receipt and report any defects in writing without delay, i.e. within a period of 10 days after receipt of the delivery. If the customer fails to give notice of defects, the delivery shall be deemed approved, unless the defect was not recognizable during the professional inspection (hidden defect). Hidden defects must be reported in writing immediately after their discovery, otherwise the delivery shall also be deemed to have been approved with regard to these defects.

8.3 Defects that are attributable to unsuitable or improper use or handling of the delivery item, incorrect assembly or commissioning by the customer or third parties and natural wear and tear shall not give rise to any liability for material defects. Likewise, there shall be no liability for material defects if the customer makes changes or repairs to the delivery item without the prior written consent of ACLARIS.

8.4 In the event of a notice of defects, ACLARIS shall be given the opportunity to inspect the goods complained about. If the goods have to be transported for the purpose of replacement, ACLARIS shall carry out this transportation itself or have it carried out by agents, unless otherwise agreed with the Customer. The Customer shall not be reimbursed for transport costs for transportation not agreed if these exceed the amount that ACLARIS would demonstrably have had to incur for collection by itself.

8.5 Claims for material defects shall become time-barred 24 months after the start of the statutory limitation period. This also applies if the goods have been integrated into an immovable or movable work. The

compensation payment does not lead to an extension or restart of the limitation period.

8.6 Any guarantee in the legal sense requires an express written agreement.

8.7 Claims for damages due to defects shall be governed exclusively by Section 9 of these Terms and Conditions of Sale. Any further liability is otherwise excluded.

9 Limitation of liability

9.1 ACLARIS shall not be liable, irrespective of the legal grounds, for damage that has not occurred to the delivery item itself, such as damage resulting from loss of production, loss of orders, loss of profit and other direct or indirect damage or consequential damage. This limitation of liability shall not apply in cases of intent or gross negligence or where this is contrary to mandatory law.

9.2 The limitation of liability shall also apply to the personal liability of ACLARIS's employees, representatives and vicarious agents.

10 Confidentiality and property rights

10.1 ACLARIS and the Customer undertake to treat all documents, information and aids received in connection with a contract and marked as confidential as their own trade secrets, even after termination of the contract, not to disseminate them unnecessarily within the company and not to make them accessible to third parties.

10.2 ACLARIS reserves the right of ownership or copyright to all offers and cost estimates submitted by it as well as drawings, illustrations, calculations, brochures, catalogs, models, tools and such documents made available to the customer that are expressly marked as "confidential". The Customer may not make these documents and information accessible to third parties, disclose them or reproduce them without the express consent of ACLARIS. At the request of ACLARIS, it must return the documents to ACLARIS in full and destroy any copies made if they are no longer required by it in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. Excluded from this is the storage of electronically provided data for the purpose of standard data backup.

11 Other

11.1 ACLARIS shall be entitled to amend these Terms and Conditions of Sale from time to time with effect for future contracts. In the event of retroactive amendments, the customer shall be notified of the amendment to the Terms and Conditions of Sale and granted a period of 30 days to reject the amendments in writing; if no written rejection is received, the amendments shall be deemed to have been approved.

11.2 Additions and amendments to contracts concluded with ACLARIS, including these Terms and Conditions of Sale, must be made in writing to be effective. Transmission by telecommunication, in particular by e-mail, is sufficient to comply with the written form requirement.

11.3 The contracts concluded with ACLARIS shall be governed by Swiss law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of April 11, 1980. All non-mandatory provisions of the Swiss Code of Obligations (OR) dated March 30, 1911 are replaced by the provisions in these Terms and Conditions of Sale. The Swiss Code of Obligations shall apply on a subsidiary basis where these Terms and Conditions of Sale contain no or incomplete provisions.

11.4 Notwithstanding clause 11.3, the law of the country to which the ordered goods are to be delivered (the so-called country of destination, cf. clause 7.2) is declared applicable exclusively to the retention of title regulated in clause 7.

11.5 The exclusive place of jurisdiction for all disputes arising from or in connection with contracts concluded between the customer and ACLARIS shall be 9445 Rebstein, Switzerland.

11.6 Should any provision of a contract concluded with ACLARIS or of these Terms and Conditions of Sale be or become invalid or ineffective in whole or in part, this shall not affect the validity of the remaining provisions. The void or ineffective provision shall be replaced by a provision that is legally permissible and comes closest to the original provision in legal and economic terms.