

GENERAL TERMS AND CONDITIONS OF SENSOPRO AG – AS OF: [01/11/2022]

This English convenience translation is for information purposes only. The original German text is the legally binding version.

1. SCOPE

1.1 These General Terms and Conditions (“GTC”) of Sensopro AG (“Sensopro”) apply in the version valid at the time the contract is concluded to all contracts between Sensopro and its customers, to the extent not agreed otherwise in writing in a separate contract. Amendments, changes or side agreements are only valid if they have been agreed in writing.

1.2 Subsequent amendments or additions to the GTC become part of the existing contractual relationship unless the customer rejects these within 30 days of receiving notice.

1.3 The General Terms and Conditions of a customer shall only apply if and to the extent agreed in writing between Sensopro and the customer.

2. OFFER AND CONCLUSION OF THE CONTRACT

Offers of Sensopro are not binding. A valid and enforceable contract is only concluded after Sensopro has accepted the customer’s order and the parties have executed a written contract. Unless stipulated otherwise in the written contract, these GTC will automatically be an integral part of the contract.

3. PRICES, SHIPPING AND ASSEMBLY COSTS

The prices agreed in the written contract shall apply. Unless there is a written agreement to the contrary, the price is net Incoterms FCA (Free Carrier) at Sensopro’s location in Münsingen and all additional costs such as VAT, costs for delivery, insurance and assembly/setting up, duties and customs charges, etc. will be charged in addition.

Assembly/setting up/commissioning will be charged according to the time spent (including waiting times caused by the customer) based on Sensopro’s applicable hourly rates.

4. PAYMENT

Invoices issued by Sensopro are to be paid by customers within 30 days but in any case before delivery. Setting-off with counterclaims is excluded.

If the payment is not made within 30 days, the customer shall automatically be in default without further reminder and Sensopro is entitled to charge interest at the rate of 5% p.a. Sensopro will charge a handling fee of CHF 20 for each reminder.

If payment is agreed to be made in instalments and the customer is in default with the payment of an instalment, Sensopro is entitled to demand immediate payment of all outstanding amounts, suspend all deliveries or withdraw from the contract and claim compensation of damages in all cases.

5. INTELLECTUAL PROPERTY, COPYRIGHTS

Ideas, designs, plans, sketches, illustrations, instructions, descriptions and the like belong to – and shall always remain - the intellectual property of Sensopro. The customer does not obtain or be granted any exploitation rights of any kind. Any exploitation or use by the customer beyond the agreed use of the goods requires Sensopro’s express prior written consent.

6. SOFTWARE AND TRAINING VIDEOS

6.1. Product line Sensopro Luna

Training videos and other videos played via the Video Kit, including the respective control software, are and remain the property of Sensopro. The customer only acquires a personal, non-exclusive, indefinite right of use (licence) for these items, which is governed by the following provisions:

- Modifications, further developments, reverse engineering, decompilation, disassembly and translation are prohibited
- Copying, selling, renting or making these available to third parties in any other way and any use outside of or in a form other than through the video kit is prohibited
- Sensopro is not obliged to further develop training videos and software. Any further developments and additional videos, etc. can be obtained for a fee.
- Sensopro is not obliged to generate updates of the software. Sensopro is entitled, however, to install updates of the software that remove bugs or improve stability or security, online via the internet connection at no cost to the customer. The customer therefore gives its consent and undertakes to provide a secure and quick data connection via the internet according to Sensopro's specifications at its own cost.

6.2. Product line Sensopro Casa

The customer has the possibility to subscribe for training videos and other videos. If the customer makes use of this option, the General Terms and Conditions for the use of training videos apply.

When purchasing a Sensopro Casa, the customer will receive a voucher entitling him/her to use the training videos free of charge for a period of one year from the date of redemption of the voucher in accordance with the relevant General Terms and Conditions.

7. DELIVERY AND ASSEMBLY

7.1 The delivery shall be made from Sensopro's location (Incoterms FCA). The place of performance is Sensopro's location. The benefits and risks shall be transferred to the customer at the time of handing the goods over to the carrier, transporter, etc.

7.2 Packaging and shipment take place at Sensopro's discretion at the cost of the customer.

7.3 The delivery time stated in the contract is non-binding and is only regarded as an indication. Claims for damages due to non-compliance with the delivery time are excluded.

In the case of delays in shipment which have not been caused by Sensopro, the purchased goods shall be stored at Sensopro on behalf of and at the expense and risk of the customer.

7.4 If delivery to the customer is not possible because the latter does not accept the goods or the delivery address has not been correctly provided, the customer shall bear the costs for the unsuccessful delivery.

7.5 Assembly and commissioning are carried out by Sensopro and are charged in line with Sensopro's prevailing cost rates

8. ACCEPTANCE AND INSPECTION

8.1 Following assembly, the customer and Sensopro must fill-in and sign a takeover and handover protocol.

8.2 The customer is obliged to check the goods and report any identified defects, including damages from transportation to Sensopro in writing within five working days after delivery of the goods.

If the customer fails to do so, the goods will be considered as having been accepted, with the exception of defects which were not detectable in the course of an ordinary inspection.

9. WARRANTY AND MATERIAL DEFECTS

9.1 Sensopro represents and warrants that the delivered goods function as stipulated in the product description for a period of two years from the delivery of the goods, provided that the goods are used in accordance with all applicable operating instructions. Further warranties, particularly regarding use for specific purposes or a specific result, are excluded.

9.2 Material defects which occur following acceptance must be reported to Sensopro within 10 working days of being discovered. If the customer fails to do so, the defect will be considered as having been accepted.

9.3 Sensopro shall not be liable for

- normal wear and tear (wearing parts such as standing areas (tapes), bands (tubes and bungees), springs)
- errors or negligence in checking, maintaining or operating the goods
- failure to follow the operating instructions and the illustrative material
- use of the goods by persons who are not in a suitable medical condition
- exceeding the maximum permitted load
- setting up the device in an unsuitable place
- chemical or electrolytic influences
- assembly by fitters not appointed or approved by Sensopro
- modifications or repairs of the goods by the customer or third parties

9.4 If there is a defect for which Sensopro is liable, Sensopro is entitled to remedy the defect at its own discretion either by repairing or replacing the goods. If a repair is not possible or not possible in a timely manner, the customer is entitled to a reduction of the purchase price, or if keeping the goods is not a reasonably acceptable option for the customer, to a rescission of the contract. Further and additional claims by the customer are excluded to the extent permitted by law.

10. LIABILITY

10.1 Sensopro is not liable for a particular result or outcome. Sensopro shall only be liable for breaches of representations, warranties and obligation which have been committed with gross negligence or wilful misconduct. Liability for ordinary negligence is excluded.

10.2 Sensopro is not liable for any indirect, incidental or consequential damages including loss of use, loss of training or lost profit. In addition Sensopro is not liable for any damages of a punitive nature.

11. PRIVACY

The customer acknowledges Sensopro's privacy policy (www.sensopro.swiss/en/privacy) and agrees to it. The privacy policy is an integral part of the GTC.

12. ASSIGNMENT

An assignment of the contract concluded between Sensopro and the customer is only valid upon Sensopro's prior written approval.

13. WITHDRAWAL

Any financial difficulties on the part of the customer that become known after the contract has been concluded entitle Sensopro to request securities or guarantees for outstanding payments. If these are not provided, Sensopro is entitled to withdraw from the contract and claim compensation.

14. SEVERABILITY CLAUSE

Should provisions in these GTC be or become wholly or partially legally ineffective, this will not affect the validity of the remaining provisions and the void provision will be replaced by one which is as close as possible to the economic purpose of the void provision.

15. APPLICABLE LAW AND PLACE OF JURISDICTION

Swiss law shall apply, excluding the Swiss conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980.

The exclusive place of jurisdiction is Münsingen, Switzerland.