

AMS Terms and conditions of Sales

The products are offered and sold by AMS only under the terms and conditions described below (“Products” or when referred to in a singular manner “Product”).

1. Validity of Quotation and Conditions of Sale

AMS' quotation is open for acceptance within the period stated therein, but is subject to change or withdrawal prior to such acceptance. Any customer orders, whether or not arising from **AMS'** quotation, shall be subject to **AMS'** confirmation in writing. These Conditions of Sale shall prevail over any conditions possibly issued by the customer, unless and to the extent expressly stated otherwise in **AMS'** quotation.

2. Prices

The prices as set out in the quotation are exclusive of any applicable sales, excise, use, import or customs duties or other taxes in effect or later levied. Unless the customer provides **AMS** with an appropriate exemption certificate reasonably in advance of the date the Product is available for delivery, **AMS** shall invoice the customer for those taxes, and the customer shall pay those taxes in accordance with the terms of the invoice.

3. Payment

AMS is entitled to full and immediate payment in EURO or USD to the bank account as indicated by **AMS** prior to shipment of the Products. Alternatively, customer has the option to pay in EURO's by means of a divisible, irrevocable, documentary and confirmed letter of credit, in a form acceptable to **AMS**, payable at sight against the shipping documents, at or confirmed by a first class Dutch bank acceptable to **AMS** and opened for the benefit of **AMS**, or by such other means as **AMS** may authorize in writing.

a) Letter of Credit. Customer shall establish the letter of credit by a first class bank, that has adopted the Uniform Customs and Practice for Documentary Credits issued by the International Chamber of Commerce, prior to shipment and in favour of **AMS** on the basis of 100 % of the value of the respective order.

The letter of credit must be valid for at least six (6) months from issuance, must allow for partial shipments and must allow at least thirty (30) days for presentation. The customer shall pay all bank charges outside of The Netherlands. If the customer requests that shipment be made other than the agreed delivery conditions, the letter of credit must be drawn in an amount sufficient to pay for any additional shipping costs, if any.

b) Delay in Payment. Any delay in payments will incur legal interest immediately as from the due date. If customer fails to pay any amount when due, **AMS** may discontinue the performance of services, discontinue the delivery of the Product(s), or deduct the unpaid amount from any amounts otherwise owed to the customer by **AMS** or any of its affiliates under any agreement with the customer, in addition to any other rights or remedies available to **AMS**. Furthermore **AMS**, or its designated representative, will be allowed, without notice to the customer, to enter any premises in which the Products may be found and render them inoperable or remove them, and hold and sell them in accordance with the applicable law. In any action initiated to enforce these Conditions of Sale following a customer default or otherwise, **AMS** shall be entitled to recover as part of its damages all costs and expenses, including reasonable attorney's fees, in connection with such action.

c) Cancellation. If the customer cancels an order prior to the Product delivery and the customer has a legal right to do so, the customer shall pay the costs incurred by **AMS** up to the date of cancellation including, but not limited to, the costs to manufacture the Product, the costs to provide any training, educational, or other services to the customer in connection with the order, a nominal restocking fee, and the costs to return or cancel any product ordered from a third party. In other cases of cancellation, the agreed price remains due and payable.

4. Leases. In the event the customer desires to convert the purchase of any Product to a lease, the customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by **AMS** not later than ninety (90) days prior to the date of the availability for delivery of major components of the Product. The customer is responsible to convert the transaction to a lease, and is required to secure the leasing company's approval of all of the terms and conditions in this quotation without modification. No Product will be delivered to the customer until **AMS** has received copies of the fully executed lease documents and has approved the same.

5. Retention of ownership and defaulting payments

Without prejudice to the passing of risks in accordance with the applicable trade terms as described below, AMS shall retain title to all Products until the customer has fulfilled its payment obligations in full. The customer shall provide any assistance in taking any measures required to protect AMS' property rights.

6. Delivery

Unless otherwise stated in its quotation, AMS shall deliver any Products FCA AMS' premises or any other premises indicated by AMS in accordance with the latest edition of the Incoterms issued by the International Chamber of Commerce. Should AMS and customer agree to any other terms holding AMS liable for the costs of transportation and/or insurance, any additional costs, including but not limited to costs due to rerouting and/or surcharges which are the result of circumstances or events that are beyond our reasonable control, shall be for customer's account. Furthermore, customer must provide full forwarding instructions with the order.

7. Technical changes; obsolescence of Products

AMS shall have the right to make changes in the design or specifications of the Products at any time, provided that such change shall not adversely affect the performance of said Products.

During the validity period of AMS' quotation, some of the Products might become obsolete. In such a situation, AMS shall endeavour to provide equivalent replacement Products at similar prices, but shall not be held responsible in case there would be no replacement available

8. Despatch and delivery

AMS shall make reasonable efforts to meet any delivery dates quoted or acknowledged, but shall not be liable for failure to meet those dates. In case AMS cannot despatch the Products to their destination at the date scheduled, due to reasons outside AMS' reasonable control, such as, but not limited to, reasons attributable to customer, AMS shall be entitled to store the Products concerned at the customer's expense and risk. In such case the warehouse receipt(s) shall serve as substitute(s) for the shipping documents in all respects and the customer undertakes to reimburse within fourteen (14) days of AMS' first demand any and all additional expenses so incurred.

The estimated date of despatch and/or completion of the installation works, if offered, has to be calculated from the date of the bank's advice that the letter of credit and/or other payment instrument agreed upon has been established in conformity with the Conditions of Sale, and/or the advance payment, if applicable, has been received.

9. Installation

In case AMS' quotation or sale includes installation of the Products, the customer shall be responsible for the following at customer's sole expense and risk:

(a) The provision of adequate and lockable storage on or near the installation site for the Products in order to ensure protection against theft and any damage or deterioration. Any item lost or damaged during the storage period shall be repaired or replaced at the customer's cost.

(b) The availability on or near the installation site of adequate and lockable rooms equipped with sanitary installations, for personnel of AMS or AMS' representative and for the storage of the personnel's tools and instruments.

(c) The timely execution and completion of the preparatory works, in conformity with any requirements that AMS shall indicate to the customer in due time. The site preparation shall be in compliance with all safety, electrical and building codes relevant to the Products and their installation. Sufficiency of such plans and specifications, specifically including, but not limited to the accuracy of the dimensions described therein, shall be the sole responsibility of customer. The installation site shall be made available to AMS or AMS' representative without obstacles in due time to enable AMS or AMS' representative to start the installation work at the scheduled date; installation personnel shall not be called upon the installation site until all preparatory work has been, in the sole opinion of AMS, satisfactorily completed.

(d) The timely provision of the permits and licenses required by the pertinent authorities for or in connection with the installation and the operation of the Products.

(e) The timely provision of all visa, entry, exit, residence, work or any other permits necessary for AMS' or AMS' representatives personnel and for the import and export of tools, equipment, Products and materials necessary for the installation works and subsequent testing.

(f) The assistance to AMS or AMS' representative, with respect to moving the Product from the entrance of the customer's premises to the installation site. The customer shall be responsible, at its expense, for rigging, the removal of partitions or other obstacles, and restoration work. AMS assumes that no hazardous material exists at the installation site. If any such material exists, the customer shall be responsible for the proper removal and disposal of the material at the customer's expense.

In case any or all of the above conditions are not properly or timely complied with, or AMS or AMS representative has to interrupt the installation and subsequent testing for reasons not attributable to AMS, the period of completion shall be extended accordingly and any and all additional costs resulting therefrom shall be for the customer's account. AMS NEITHER ASSUMES LIABILITY NOR OFFERS ANY WARRANTY FOR THE FITNESS OR ADEQUACY OF THE PREMISES OR THE UTILITIES AVAILABLE AT THE PREMISES IN WHICH THE PRODUCT IS TO BE INSTALLED, USED OR STORED.

10. Acceptance

In case installation of the Products is offered, AMS shall notify the customer when the Products installed will be ready for testing and acceptance, inviting the customer to attend the standard tests or such tests as may have been agreed upon in writing to demonstrate compliance with the agreed specifications and/or to inspect the installation work.

If the customer's representative fails to attend the testing on the date notified, the technical staff of AMS or its representative will commence with the tests according to AMS' standard test procedures and these tests shall be considered performed in the presence of the customer's inspector and acceptance shall in such case take place on the basis of the results stated in the test certificate signed by us.

In case of rejection of the Products installed for justified reasons, to be submitted to AMS in detail and in writing within ten (10) days after completion of the acceptance tests concerned, AMS shall as a sole remedy correct the shortcomings as soon as possible and the relevant parts of the acceptance test shall be repeated within a reasonable period of time in conformity with the procedures outlined above.

If within ten (10) days after completion of the acceptance test AMS shall not have received the acceptance certificate signed by the customer or a report of rejection for justified reasons, or upon start of the operational use, the Products installed shall be considered as having been accepted by the customer.

Minor defects or deviations not affecting the operational use of the Products installed shall be stated in the acceptance certificate, but shall not obstruct or suspend acceptance. AMS undertakes to remedy such defects as soon as possible.

11. Complaints and returns

The customer shall notify AMS in writing and shall substantiate any complaints of erroneous despatch and/or apparent damage to the Products supplied within ten (10) days after receipt of the Products including the date and number of AMS' invoice. AMS shall issue, upon acceptance of the complaint, a return authorisation notice and customer shall return the relevant Products in accordance with AMS' instructions. All Products returned must be insured and carriage prepaid by customer and packed in their original packing.

12. Product warranty

AMS provides Product specific warranties with respect to the offered Products, as set out in AMS' quotation, or as annexed hereto. In absence of any Product specific warranty, AMS warrants to the customer the good quality of any hardware Products supplied, for a period of one year as from the date of acceptance or first patient use, whichever occurs first, but in no event for more than fifteen (15) months as from the date of despatch, against defects which appear therein under proper use, and which arise solely from faulty materials or workmanship. This warranty does not include any vacuum articles to which a pro rata credit applies. Furthermore this warranty

is not applicable for replacement parts, hardware upgrades, consumables and other excluded items for which specific warranty conditions apply as indicated, provided for or made accessible by AMS.

Some newly manufactured Products supplied hereunder may contain selected remanufactured parts equivalent to new in performance. Replacement parts are new or equivalent to new in performance.

AMS' obligations under any product warranty are limited, at AMS' option, to the repair or the replacement of the Product or a portion thereof, or to a refund of a portion of the purchase price paid by the customer. Any refund will be paid to the customer when the defective Product or part is returned to AMS. Any product warranty is made on condition that AMS receives written notice of a Product defect during the warranty period and within ten (10) days following the discovery of the defect by the customer, and, if so requested, the defective Products have been returned to an address or location indicated by AMS. Such defective parts shall become AMS' property as soon as they have been replaced. AMS' obligations under any product warranty do not apply to any defects resulting from:

- (a) improper or inadequate maintenance or calibration by the customer or its agents;
- (b) customer or third party supplied software, interfaces, or supplies;
- (c) use or operation of the Product other than in accordance with AMS' applicable Product specifications and written instructions;
- (d) abuse, negligence, accident, loss;
- (e) damage in transit;
- (f) improper site preparation;
- (g) unauthorised maintenance or modifications to the Product; or,
- (h) any damage to the Product – including software – or any medical or other stored data caused by an external source regardless of its nature, including but not limited to hacking,
- (i) viruses or similar software interference resulting from the connection of the Product to a network. AMS does not provide a warranty for any third party products furnished to the customer by AMS under this quotation; however, AMS shall use reasonable efforts to extend to the customer the third party warranty for such product. The obligations of AMS described above are AMS' only obligations and the customer's sole and exclusive remedy for a breach of a Product warranty.

EXCHANGE POLICY

- All EXCHANGES require a valid RMA (Return Material Authorization) number. RMA numbers valid for exchange parts only will be issued at the time of sale.
- EXCHANGE parts are identified at the time of quotation and noted on ALL packing slips and invoices.
- A "Like and/or Repairable" part **MUST** be received at AMS, within 30 days of the original shipment date. If an exchange part is **NOT** received at AMS within 30 days of the original shipment date, the customer will be additional billed the current OEM List price.
- If the EXCHANGE received is NOT a "Like and/or Repairable" part, written notification will be sent to the customer requesting them to provide a "Like and/or Repairable" part within 5 business days. If one is NOT received within 10 days, the customer will be additional billed. The original part received may be returned at customer's request and expense, or it will become the property of AMS after 15 days.
- Additional billing – Failure to return an EXCHANGE part within 30 days of the original shipment date will result in an additional billing. The additional billing will be OEM Outright price or an amount left at the discretion of AMS.
- Additional billing credit – If the EXCHANGE part is returned within 45 days from the original date of shipment, a credit equal to 50% of the additional bill will be issued. If the EXCHANGE part is returned within 45 – 59 days from the original date of shipment, a credit equal to 25% of the additional bill will be issued. NO credit to the additional bill will be issued for parts received after 60 days of the original date of shipment.

RESTOCK & POLICY

- AMS MUST be notified within 5 business days from the receipt of shipment for restock.
- AMS allows the restocking of parts to be returned up to 30 days from original date of shipment, if more than 30 days it will result in the original invoice due in full.

- All RESTOCKS require a valid RMA number to be requested within 5 days of the original shipment date. Please contact your AMS Customer Service Representative to obtain an RMA number valid for restocks prior to returning part.
- **All RESTOCK parts returned without a restock RMA number will be processed as an EXCHANGE part, without prior notice.**
- If the part is returned within 30 days from the original date of shipment, the following RESTOCK credit will apply:
 - Un-Opened = 25% Restock Fee
 - Opened = 30% Restock Fee

WARRANTY POLICY

- AMS warrants its product against any defects or malfunctions specified at the time of quotation (including but not limited to proration on X-ray tubes, U.S Transducers, and other specified glassware) This warranty is void if the serial number has been altered or removed from the product. If the failure of the product is a result of accident, abuse, misapplication or acts of God, AMS shall have NO responsibility under this warranty policy. Warranty terms and credit terms are as follows:
 - To receive a WARRANTY, AMS must be contacted within said warranty period given at time of quotation. Please contact your AMS Customer Service Representative to obtain a RMA number prior to returning product.
 - **All WARRANTY parts returned without an RMA number will be processed as an EXCHANGE part and no credit will be issued.**
 - All WARRANTY claims will undergo a technical review validation, and credit will only be issued on valid and approved warranty claims.
 - All WARRANTY parts must be returned to AMS within 15 days of the receipt of original warranty claim date. Any more than 15 days will result in original invoice due and payable in full.
 - WARRANTY credit will only be issued when a warranty replacement has been ordered. Warranty returns without a warranty re-order will be credited 70% (30% No Re-Order Fee) subject to contingencies stated in this policy.
 - Parts replaced under the terms of this warranty will be covered for the remainder of the original warranty unless otherwise specified by AMS Staff in writing.
 - If a warranty claim is invalid (determined by AMS Technician) a received as an opened restock fee will apply
 - WARRANTY credit – Credit for a valid warranty claim will be issued as follows:
 - Part received within 10-15 days of the warranty claim – 100% Credit
 - Part received between 16-20 days of the warranty claim – 50% Credit
 - Part received after 21 days of the warranty claim – 0% Credit

LIMITED WARRANTY

- **AMS** warrants that the parts (other than x-ray tubes and ultrasound transducers) will meet manufacture specifications during the applicable WARRANTY period, defined above. Warranties for any other parts, if any, are exclusively those offered by the manufacturer or refurbished of such parts. Except for the warranties described above, all parts are sold AS IS, and WITH ALL FAULTS, and **AMS** Company MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE PARTS SOLD UNDER THIS POLICY AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY

- **AMS** TOTAL LIABILITY FOR ANY CLAIM UNDER THIS POLICY IS LIMITED TO THE PRICE OF THE PART(S) OF WHETHER SUCH CLAIM IS MADE AT LAW, IN TORT, IN CONTRACT OR PURSUANT TO ANY OTHER THEORY, INCLUDING STRICT LIABILITY NEITHER AMS NOR CUSTOMER WILL HAVE ANY LIABILITY TO THE OTHER FOR PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES SUCH AS LOST PROFITS OR REVENUE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME. THE TRANSACTION DESCRIBED IN AND THOSE OCCURRING PURSUANT TO THIS POLICY ARE EACH COMMERCIAL TRANSACTIONS. ANY ACTION RELATED TO THIS POLICY SHALL BE BASED SOLELY ON COMMERCIAL LAW PRINCIPLES. NEITHER PARTY SHALL HAVE ANY NEGLIGENCE OR OTHER TORT LIABILITY TO THE OTHER ARISING FROM THIS POLICY OR TRANSACTIONS OCCURRING PURSUANT HERETO.

SHIPMENT AND RISK OF LOSS

- Unless otherwise stated, all parts shall be shipped FCA **AMS** shipping dock, with prepaid freight at customer's expense, and title and risk of loss shall pass to customer at that point. Unless otherwise agreed, AMS shall select carriers.

RETURN SHIPPING

- UNLESS OTHERWISE STATED, ALL PARTS MUST BE RETURNED TO AMS TO INSURE PROPER CREDIT.
 - AMS
 - Anthony van Opbergenstr 15
 - 5624 AR Eindhoven
 - The Netherlands

DISCLAIMER

- **DISCLAIMER:** If the customer fails to pay pursuant to the terms of this Agreement and AMS elects to take legal action to collect this account, the Customer shall pay all costs incurred by AMS including, but not limited to, attorney's fees, court costs, expert witness fees, special process server fees and bond costs. The Customer assigns to AMS as security for any indebtedness, incurred or to be incurred to AMS, all of its existing or hereinafter acquired: accounts receivable, equipment and inventory. The laws of The Netherlands shall govern this transaction, and jurisdiction and venue for hearing of any matter in dispute, shall be with the 's-Hertogenbosch Court.

FINANCE CHARGES

- Customer shall pay the full amount of invoice unless otherwise notified in writing by AMS Customer agrees to pay a service charge on the outstanding past due balance after deducting any credits or payments. The service charges will be 1.5% per month of the customers outstanding past due balance in addition to ANY collections fees that are incurred by AMS.