

GENERAL TERMS & CONDITIONS

smaXtec animal care GmbH

Belgiergasse 3

A-8020 Graz

FN326827 Landesgericht ZRS Graz

(hereinafter referred to as smaXtec)

1. Basis

1.1.

Sales, hardware leasing and deliveries are exclusively based on these general terms and conditions which are valid for the current and future business relationship between smaXtec and the customer.

1.2.

Customer's general terms and conditions which deviate and/or are contrary to these conditions shall not be part of these conditions except if the validity of all or part of the customer's terms and conditions is stipulated in written form.

1.3.

Any contractual agreement must be made in writing.

2. Applicable Law - Legal Jurisdiction

2.1.

The current and future business relationship between smaXtec and the customer is subject to Austrian law, excluding UN purchase law.

2.2.

The contracting parties agree that all disputes arising from or relating to this contract, including any dispute regarding conclusion of the contract and validity, shall be settled under the exclusive international jurisdiction of the Austrian courts. Place of performance and sole legal venue for all disputes under this agreement shall be the registered location of smaXtec.

3. Conclusion of Contract - Payment

3.1.

A sales contract for the smaXtec contract goods shall be concluded subject to order placement and written order confirmation from smaXtec. The customer shall make a payment on account of at least 50% of the invoice value detailed in the order. This is due upon receipt of the order confirmation and shall be transferred without delay to smaXtec's bank account:

Bank: Steiermärkische Bank und Sparkassen AG, IBAN: AT37 2081 5000 0694 2924, BIC: STSPAT2GXXX

3.2.

The balance of 50% is payable within 15 days of delivery and shall be transferred to the same smaXtec bank account.

3.3.

Orders with a net value of less than **€ 5,000** will only be dispatched upon receipt of the full payment.

3.4.

smaXtec is entitled to withdraw from a concluded sales contract should it become apparent that the customer has failed to meet agreed payment terms. Deliveries will not be made while the customer owes monies for other orders.

3.5.

smaXtec delivers goods to the customer's address. The transfer of risk is governed by the relevant Incoterms 2010 Clause EXW and provisions herewith agreed.

4. Hardware Leasing

4.1.

A lease agreement relating to hardware is concluded after the customer places an order and when smaXtec confirms the order in writing. After termination of the lease agreement all leased hardware shall be returned to smaXtec. Following such termination, leased boli shall be disposed of by the customer.

4.2.

If an animal to which a bolus has been administered is sold or sent to a processing facility for slaughter before expiry of the minimum leasing period, all remaining bolus lease payments shall become due immediately. At the customer's request, however, smaXtec shall continue to charge the lease payments on a monthly basis until the end of the leasing period.

4.3.

The minimum contract period shall be accordance with the order form. In the absence of the conclusion of special contractual provisions, which have been formally agreed in a separate written agreement, this period shall be 36 months from receipt of the hardware. Termination of the lease agreement within the minimum leasing period by either of the contracting parties is not permitted. After expiry of the minimum contract period, the leasing agreement is automatically extended unless it is terminated in writing subject to a notice period of one month to the end of the contractual year.

5. Retention of Proprietary Rights

5.1.

smaXtec shall retain ownership of the sold goods until full payment has been received. smaXtec shall retain full title of all leased hardware unless explicitly agreed otherwise in these general terms and conditions.

5.2.

Should third parties access the reserved goods, particularly in the course of any legal proceedings, the customer shall inform the third party that the goods are the property of smaXtec and shall inform smaXtec immediately in writing, providing contact data of the third party and the responsible authority/court so that smaXtec may enforce its proprietary rights. The customer is obliged to support smaXtec to the fullest extent.

6. Warranty / Notification of Defects / Remote Maintenance Services

6.1.

In the event that goods supplied prove to be defective, the customer shall be entitled to claim under statutory warranty rights. This shall be conditional on the customer commencing use of the goods at the latest by expiry of the best before date on the packaging of the smaXtec Basic and Premium. In this case, smaXtec shall guarantee retention of the specific properties of the product. It shall be clearly established that provision of the best before date on smaXtec packaging shall not constitute a guarantee. Distributors and end users shall be obligated to carefully follow all instructions from smaXtec provided in the user information; this applies in particular to transport and storage conditions.

The customer acknowledges that the devices that make up the smaXtec System (Base Station, Repeater, Sensors, Software) may be used for the measurement of rumen pH, temperature in cows, their physical activity and for the measurement of other parameters (currently ambient temperature and humidity in the cow shed).

6.2.

The customer must inspect delivered goods upon receipt and immediately provide written notification of any identifiable defects. In the case of hidden defects, written notification of the defect shall be provided immediately upon discovery thereof.

Under these conditions and should the delivered goods in fact be defective, the customer is entitled to legal warranty rights. smaXtec shall be entitled to choose between repairing or replacing the defective goods. The distributor shall ensure smaXtec has sufficient time and opportunity to undertake the necessary repairs and replacement deliveries; smaXtec shall otherwise be released from any liability for resulting consequences.

6.3.

If the customer submits a warranty claim he is obliged to make data stored on the smaXtec products and log files accessible to smaXtec. smaXtec shall be obliged to maintain confidentiality of this data.

6.4.

The customer acknowledges that an intact internet connection must be available to facilitate use of the free remote maintenance services provided by smaXtec.

6.5

smaXtec guarantees that its products meet the relevant national standards and requirements in the countries in which these products are marketed with the approval of smaXtec. smaXtec shall not assume any warranty claims for products with regard to compliance with regulations in countries in which the products are marketed without the prior knowledge and written approval of smaXtec.

smaXtec products are not intended for export to third countries by the customer. It is therefore expressly forbidden that the customer shall export the products from these countries to third countries.

Should this provision be contravened, smaXtec shall not assume any warranty and shall be indemnified against any claims from the customer.

7. Installation

The customer acknowledges that the use of the smaXtec monitoring system requires proper installation.

8. Liability

smaXtec's liability - regardless of the legal basis - is limited to damages caused deliberately or as a result of serious negligence by smaXtec. smaXtec's maximum liability for claims for compensation is limited to € 1,500,000,00. These provisions shall not apply to claims for loss or damage on the basis of the Product Liability Act.

9. Special contractual provisions

Insofar as smaXtec and the customer have concluded special contractual provisions, which have been formally agreed in written agreements, then the special contractual provisions shall have priority over these General Terms & Conditions. Oral promises and statements of smaXtec, its employees or commercial representatives of smaXtec shall not justify any rights or claims of the customer. The agreed written conditions shall apply exclusively.