

# General Terms and Conditions of Business of amplitrain GmbH

## Section 1 Scope of validity and Suppliers

(1) These general terms and conditions of business shall apply for all orders which you place with

amplitrain® GmbH  
Besselstrasse 2 – 4  
68219 Mannheim

Directors: Beate Rösch, Sabine Kleber.

(2) Our product range is only designed for buyers aged 18 and over.

(3) Our goods, services and offers are all based on these general terms and conditions of business (T&Cs). This means that these T&Cs shall also apply for business customers for all future business relationships, even if they have not been expressly agreed again. The general terms and conditions of a customer differing from our T&Cs shall hereby be rejected here and now.

(4) The only language of contract is German.

You may download our T&Cs currently in force from [www.amplitrain.de](http://www.amplitrain.de).

## Section 2 Entering into a contract

(1) Your request via our contact form on our website that we make contact with you does not constitute a binding application by you to enter into a contract. Instead, it is a non-binding request by you that we contact you by means of fax message, telephone or e-mail.

(2) By placing an order for goods by fax message, telephone or e-mail you are making a binding offer to enter into a contract (Section 145 of the German Civil Code [BGB]).

(3) A contract for the sale of goods shall only materialise when we expressly confirm your offer (order confirmation) or if we deliver the goods to you without expressly stating in advance that we accept your offer.

### **Section 3 Prices**

The prices quoted in the order confirmation include VAT and other price components but do not include shipping costs, unless agreed otherwise. In the event of revocation the Buyer shall, as a matter of principle, have to bear the shipping costs.

### **Section 4 Terms and conditions of payment and Default**

- (1) Payment may be made, either by payment in advance, in response to an invoice, or credit card (if payment is made in Mannheim). The Buyer shall bear any handling fees which may be charged to amplitrain GmbH.
- (2) The selection from the available methods of payment is incumbent upon us. We reserve the right in particular to only offer you some of the above methods of payment to safeguard our credit risk, i.e. payment in advance.
- (3) When selecting payment in advance as the payment method, we shall quote our bank account details in the order confirmation. The invoiced sum is to be remitted to our account within 10 days from the receipt of the order confirmation.
- (4) Customs' duties incurred are to be paid by the Buyer or Lessee.
- (5) If you fall into arrears with your payment, you shall consequently be obliged to pay the statutory default interest amounting to 5 percentage points above base rate. We shall charge you a reminder fee for each payment reminder we send out after you have fallen into arrears, unless you can prove that our damages are lower, or we can prove that our damages are higher.

The payment reminder fee shall amount to:

5.00 € for the first payment reminder  
10.00 € for the second payment reminder  
15.00 € for the third and final payment reminder.

After the third payment reminder we shall instigate recovery proceedings through the courts.

- (6) Equipment and suits loaned out must be returned within 5 working days of the receipt by the Borrower without him being requested to do so, and at his own expense to amplitrain GmbH. The dispatch date shall suffice as proof that the specified time limit has been satisfied.

If there is no record of receipt at our above-named premises of the identical leased equipment (serial number), or identical suit (batch number) after 14 days, an invoice will be raised for the price as new of the leased equipment or the loan suit.

### **Section 5 Offsetting / Right of retention**

- (1) You shall only be entitled to a right of retention if your counter-claim has been adjudicated, is not contested by us or is closely associated in a synallagmatic relationship with our claim.
- (2) You may only exercise a right of retention provided that your counter-claim is based upon the same contractual relationship.

### **Section 6 Delivery / Right of reservation**

- (1) Unless agreed otherwise, the goods shall be delivered from our premises in Mannheim to the address given by you.
- (2) We shall retain the title to the goods until the purchase price or lease price for them has been paid in full.
- (3) By way of exception, we shall not be obliged to deliver the ordered goods if we have properly ordered the goods but have not been supplied with the correct goods, or not been supplied with them on time (congruent covering transaction). We shall not take over the risk of having to obtain the ordered goods (procurement risk). This shall also apply when ordering goods, which are only described in terms of their type and features (Unascertained goods). We shall only be obliged to supply goods from stock and from those goods ordered from our suppliers.
- (4) If you are a registered business within the meaning of Section 14 of the German Civil Code [BGB] the following shall also apply:
  - We shall reserve the title to the goods until all our accounts from the on-going business relationship have been settled in full. The goods subject to reservation of title must not be pledged or assigned by bill of sale as a security until title has passed over to our Buyer.
  - You may resell the goods in a proper commercial transaction. In this scenario you shall assign here and now all accounts for the amount of the invoiced sum accruing to you from a resale over to us. We accept the assignment. You are however authorised to collect the account. Insofar as you fail to fulfil your payment obligations in due form, we shall reserve the right to collect the accounts ourselves.

- If the goods subject to reservation of title are combined and blended, we shall acquire co-ownership to the new thing in proportion to the invoice value of the goods subject to reservation of title to the other processed items at the point in time of processing.
- We shall undertake to release the securities to which we are entitled to the extent that the marketable value of our securities exceeds the accounts to be secured by more than 10%. The selection of the securities to be released shall be incumbent upon us.

### **Section 7 Instruction on right of revocation**

**In the event that you are a consumer within the meaning of Section 13 of the German Civil Code [BGB], that means that you are making a purchase for purposes which cannot primarily be ascribed to either to your commercial or your independent professional work, you will be entitled to a right of revocation in accordance with the following provisions:**

#### **Right of revocation**

**You will be entitled to cancel this contract within fourteen days without having to state any reasons.**

The revocation period shall be fourteen days from the day on which you or a third party named by you, who is not a carrier, took possession of the goods.

In order to exercise your right of revocation you will have to notify us of your decision to revoke the contract with a clear statement to that effect sent either by post in a letter, fax message or e-mail. Your statement must be sent to us at:

Firm:           amplitrain GmbH  
Address:       Besselstrasse 2 - 4  
                  68219 Mannheim

E-mail:        [mail@amplitrain.de](mailto:mail@amplitrain.de)  
Tel:            +49 0621 150 216 0  
Fax:            +49 0621 150 216 16

You may, but do not have to, use the enclosed specimen revocation form to do so.

To observe the revocation period it shall suffice that the notification that you wish to exercise your right of revocation is sent by you before the revocation period expires.

Consequences of revocation:

If you revoke this contract, we shall have to repay you all payments we have received from you, including delivery costs (with the exception of additional costs incurred as a result of you having chosen a method of delivery other than the lowest cost standard delivery offered), straightaway and within fourteen days from the day on which we received the notification that you have revoked this contract at the latest. We shall use the same method of payment to make this repayment to you that you used for the original transaction, unless an agreement was expressly made otherwise with you. Under no circumstances shall we charge you any fees for making this repayment.

We may refuse the repayment until we have received the goods again, or until you have furnished evidence that you have sent back the goods, depending upon which occurs at an earlier point in time.

You shall have to return the goods or hand them over to us straightaway, and in any case within no later than fourteen days from the day on which you notify us of your intention to revoke this contract. This period will have been observed if you dispatch the goods before the fourteen-day period expires.

You will bear the direct expenses of returning the goods to us.

You will only have to bear any possible drop in value of the goods if this loss in value is attributable to an unnecessary procedure conducted by you to inspect the goods to verify their condition, features and function.

### **Specimen revocation form**

If you wish to cancel this contract, please fill in this form and return it to us:

Firm: amplitrain GmbH

Address: Besselstrasse 2 - 4  
68219 Mannheim

E-mail: [mail@amplitrain.de](mailto:mail@amplitrain.de)

Fax: +49 0621 150 216 16

I / We (\*) hereby cancel the contract entered into by me / us (\*) governing the purchase of the following goods: (\*):

Ordered on (\*)/received on (\*)

I have been informed that as the consumer, I shall have to bear the expense of returning the goods, i.e. for packing the goods properly and for transportation.

Name of the Consumer:

Consumer's address:

Consumer's signature (only if notification is made on paper)

Date

(\*) Delete as appropriate.

## **End of the instruction on the right of revocation**

- (1) The right of revocation does not apply for
  - The delivery of goods not prefabricated, and for the manufacture of which an individual specification or provision was made by the Consumer, or for goods which have clearly been customised to satisfy the personal requirements of the Consumer,
  - For the delivery of sealed goods, which are not suitable for return for health and safety or for hygiene reasons if their seal has been removed following delivery.
- (2) Please prevent damage and contamination. Please send in the goods to us as soon as possible in the original packing with all the accessories and with all packing parts. If necessary, use protective wrapping. If you no longer have the original packing in your possession, please ensure that you use suitable packing to provide adequate protection against damage in transit, with the aim of preventing any compensation claims for damages from being asserted for damage resulting from inadequate packing.
- (3) Please phone us on +49 0621 150 216 0 prior to returning the goods to notify us that you are returning the goods. By doing so you will enable us to sort the products as soon as possible.
- (4) Please note that the methods named in paragraphs 2 and 3 above do not constitute a prerequisite for exercising your right of revocation effectively.

## **Section 8 Transport damage**

- (1) If goods are delivered by means of public transport, please report damage in transit immediately to the party delivering the goods and contact us as soon as possible.
- (2) Failure to report damage or to contact us shall not have any effect upon your statutory warranty rights. By doing so, you will, however, make it easier for us to assert our own claims against the freight forwarder or transport insurance company.

## **Section 9 Warranty**

- (1) Unless an agreement is expressly made otherwise, your warranty claims shall be determined by the statutory regulations of the law on sales (Sections 433 et seq. of the German Civil Code et seq. [BGB]). Moreover, the statutory regulations shall apply for the warranty, in particular the two-year period of limitation in accordance with Section 438 Para 1 No 3 BGB.
- (2) The following warranty claims shall apply in the cases below:

- a. Warranty claims for our AmpliTrain S and AmpliCube devices will be covered for 2 years.
  - b. Warranty claims for our AmpliShort suits will be covered for 1 year. This limitation shall not apply to the electrodes in the suits.
  - c. Warranty claims for all wiring will be covered for 1 year. This shall not apply for broken wiring and wiring defects caused by improper handling.
  - d. Warranty claims for distributors will be covered for 1 year. This cover shall not apply for distributor defects caused by improper handling.
  - e. Warranty claims shall be covered for AmpliStrap electrodes for 6 months.
  - f. Defects caused by the Buyer or Lessee himself shall never be covered by warranty or manufacturer's guarantee.
- (3) If you are a consumer within the meaning of Section 13 BGB, the period of cover for claims under warranty for used things shall – notwithstanding the statutory regulations – be one year. This limitation shall not apply for claims based upon damages resulting from death, personal injury or physical harm or from a breach of an important contractual duty, the fulfilment of which makes it possible for the contract to be carried out properly in the first place, and upon compliance with which the other party to the contract may normally rely (Cardinal duty) as well as for claims based upon other damages attributable to an intentional or grossly negligent breach of duty by the user or his assistants.
- (4) If you are a business within the meaning of Section 14 BGB, the statutory regulations shall apply subject to the following amendments:
- Only our information and the manufacturer's product description shall be binding for the features of the goods. However, the manufacturer's public sales promotion, statements and other advertising shall not be binding.
  - You will be obliged to inspect the goods straightaway with the level of care necessary to identify discrepancies in quantity and quality and to notify us of manifest defects within 7 days from the receipt of the goods. It shall suffice for your notification to be dispatched before the above period of time has elapsed for you to comply with the set time limit for submission. This shall also apply for the notification of concealed defects identified subsequently from the date of discovery. If you are in breach of the duty of inspection and notification, you will forfeit all your claims under warranty.
  - If our goods do have defects, we shall as we choose, fulfil our warranty obligations by means of a repair or supplying a replacement (Cure). In the event that we decide to carry out a repair, we shall not have to bear the increase in costs resulting from the goods having been moved from a site other than that designated as the place of fulfilment, unless the goods were moved in accordance with their intended use.



- If the cure is unsuccessful on two occasions, you may, as you choose, demand a reduction in price or withdraw from the contract.
- The good shall be covered by warranty for a period of one year from delivery.

### **Section 10 Liability**

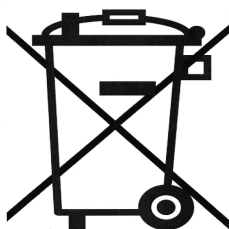
- (1) Unlimited liability: we shall be liable without limitation for intent and gross negligence as well as in accordance with the German Product Liability Act. In cases of ordinary liability we can only be held liable for damages arising from death, personal injury and physical harm.
- (2) Moreover, the following limited liability shall apply: in cases of ordinary liability we can only be held liable if we have committed a breach of an important contractual duty, the fulfilment of which makes it possible for the contract to be carried out in the first place and upon the fulfilment of which you may normally rely (Cardinal duty). Liability for ordinary negligence is limited in terms of amount to the damages foreseeable when the contract was signed, and the materialisation of such damages typically has to be reckoned with. This limitation of liability shall also apply for the benefit of our assistants.

### **Section 11 Information on the return and disposal of batteries / accumulators and electrical and electronic devices**

Batteries and electrical devices must not be put into household waste to prevent environmental damage. You may hand in your flat batteries free of charge to the public waste collection points in your community or anywhere where batteries are sold. You may likewise hand in your obsolete electrical appliances free of charge to one of your local waste collection points. Collection points may refuse to accept obsolete appliances if, given hazardous substances, they pose a risk to the health and safety of people.

Flat batteries and old accumulators not encased in an obsolete device must be taken out prior to handing in at the waste collection point.

The crossed out wheellie bin symbol means that electronic devices and certain batteries must be collected and disposed separately from domestic waste.



You will also find the following information on batteries containing hazardous substances:

Pb: Battery contains lead

Cd: Battery contains cadmium

Hg: Battery contains mercury

### **Section 12 Alternative dispute resolution**

We shall endeavour to settle any differences in opinion which may arise from our contract by mutual consent. Other than this, we shall not be under any obligation to participate in any arbitration procedure and unfortunately we are unable to offer you the option of participating in such arbitration procedures either.

### **Section 13 Final provisions**

- (1) Should one or more provisions of these T&Cs be or become invalid, the validity of the remaining provisions shall not, moreover, be affected as a result.
- (2) All contracts between you and us shall be governed by German law. However, the provisions of the United Nations Convention on Contracts for the International Sale of Goods [CISG] shall not apply. Mandatory provisions of the country in which you have your normal whereabouts shall not be affected by the choice of law.
- (3) If you are a registered trader, legal entity under public law or a public law special fund, the courts located where we have our business premises shall consequently be the place of jurisdiction for all disputes arising from or in connection with contracts between you and us.

Status as at: 7 August 2018