

**General Terms and Conditions**  
**Applicable to Products and Components**  
**of Daxtro Distribution AG, Switzerland**

**1. General**

- 1.1. The contract between Daxtro Distribution AG (hereafter named as "Daxtro") and the purchaser of Daxtro's products and/or components (hereafter named as "the Purchaser") shall be deemed to have been concluded upon receipt of written confirmation by Daxtro that it has accepted the order ("confirmation of order"). Daxtro's offers are non-binding, unless it is explicitly marked as binding.
- 1.2. Daxtro provides plug and play devices (hereinafter named as "products and/or components ") which are used on water distribution systems, without the use of chemicals, sand and salts, eliminating and preventing the formation of; limescale, rust, algae, bio-film, bacteria and other pollutants. All devices contain Daxto innovative and patented em-TAP technology.
- 1.3. The payment terms, delivery conditions pursuant to Incoterms, delivery dates and pricing are detailed by Daxtro in the confirmation of order.
- 1.4. EXW Incoterms 2010 "ex works" shall apply in the event that no other delivery terms are otherwise specified in the confirmation of order. In the event that the Purchaser has not indicated any shipping instructions, shipping shall be effected by way of courier at Daxtro's choice. All shipping charges shall be assumed by the Purchaser.
- 1.5. All prices are quoted ex works, including packing (for shipment with a courier service) and excluding any discounts or other deductions. The prices specified in the confirmation of order shall apply. Prices are exclusive of value-added tax, which is charged extra.
- 1.6. Payment is due within 30 days of the invoice date unless specified otherwise in the confirmation of order.
- 1.7. These General Terms and Conditions are binding when they have been declared to be applicable in the offer or confirmation of order. Terms and conditions of the Purchaser deviating therefrom shall not be applicable unless they are expressly accepted by Daxtro in writing in the confirmation of order.
- 1.8. We reserve our property rights, copyrights or any other protective rights pertaining to cost estimates, drawings, samples and other documents (hereinafter called "Documents"). The documents shall not be made accessible to third parties without prior consent and shall, upon request, be returned to Daxtro without undue delay if the contract is not awarded, expired or cancelled to us.

**2. Scope of Goods Supplied and Services Rendered**

- 2.1. The goods supplied and services rendered by Daxtro are exhaustively covered and definitively specified in the confirmation of order and these General Terms and Conditions, including any annexes or attachments to these documents.
- 2.2. The services rendered and the characteristics of the products and/or components supplied are exhaustively covered and definitively specified by Daxtro in the specification data sheets, with

any other warranted characteristics being expressly excluded. The specification data sheets in effect and specified at the time of ordering are definitive. As a rule, the specification data sheets are published by Daxtro on its website or attached to the offer. In the event this isn't the case or if the Purchaser does not have access to Daxtro's website, the Purchaser can have the specification sheet pertaining to the products and/or components ordered sent to it.

Other particulars pertaining to the products and/or components shall not be binding unless the agreed otherwise by the parties hereto in writing.

### **3. Payment**

- 3.1. Daxtro will invoice the consignment or partial consignments upon delivery being effected ex works or upon notification to the Purchaser of readiness of the items ordered for shipment. The invoice is due for payment within the specified period in the confirmation of order net from the date of the invoice.
- 3.2. Payments are to be effected in full to Daxtro's Swiss domicile (place of fulfilment) without any deductions being made for cash discounts, bank charges, exchange costs, taxes, levies, customs, fees, import and export charges, or others. All bank charges shall be assumed by the Purchaser. Payment shall be deemed to have been effected in a timely manner when the invoiced amount has been credited to Daxtro's account within the payment period indicated on the invoice.

In the event that payment is late, the Purchaser shall effect payment of interest in the amount of 0.3% per week of delay as from the due date specified on the invoice, this to be done without Daxtro having to issue a reminder to this effect. Daxtro expressly reserves the right to assert claims for compensation for any loss extending beyond this. In addition, Daxtro retains the right to stop manufacture at its manufacturer for delivery of any or all outstanding consignments and to suspend delivery of the products and/or components until it has received payment in full for all outstanding invoices.

- 3.3. All of the deliveries effected by Daxtro shall remain its property until it has received payment in full as provided for in the contract and these General Terms and Conditions.

### **4. Delivery**

- 4.1. The delivery date specified in the confirmation of order, and only this date, shall apply. The delivery date shall be deemed to have been adhered to by Daxtro when the notification of readiness for shipment has been made to the Purchaser by this time.
- 4.2. The delivery date shall be extended automatically as reasonable in the following cases:
  - a) when impediments arise which Daxtro could not have avoided, despite exercising proper care and notwithstanding whether they arose on its side, the Purchaser's side, or the side of a third party. Examples of such impediments include but are not limited to the following cases of force majeure: epidemics; mobilization of law enforcement and armed forces; war; insurrections; substantial interruption of operations; lock-outs, strikes or other concerted acts of workmen (whether of the parties or others); casualties or accidents; shortage of power, labor or materials; delayed deliveries or non-delivery by suppliers of the requisite raw materials, semi-finished or finished goods; essential components becoming defective; embargoes; acts or omissions on the part of government authorities; acts of God, natural phenomena and disasters; or any other causes, circumstances or contingencies beyond Daxtro's control;

- b) when the Purchaser or a third party is in delay or default of completing work to be performed by them or of complying with their contractual obligations, particularly when the Purchaser does not adhere to the payment terms.
- 4.3. The Purchaser is entitled to assert claims for compensation for loss caused by delayed deliveries, insofar as the delay can be shown to be attributable to Daxtro, and the Purchaser can furnish proof of having incurred loss as the result of such delay. Any and all such claims for compensation for delay or default shall become null and void in the event that the Purchaser is aided by way of a replacement delivery. Daxtro shall not be liable for any loss extending beyond the extent of said compensation for delay or default.

The compensation for delay or default shall amount to a maximum of 0.5% for each full week of delay, however no more than 5% in all, as calculated on the payable contract price of the delayed part of the delivery. The compensation for delay or default shall not be payable for the first two weeks of delay.

Once the maximum of the compensation for delay or default has been reached, the Purchaser shall grant Daxtro a reasonable grace period in writing. In the event that this grace period is not adhered to for reasons not attributable to Daxtro, the Purchaser shall be entitled to reject delivery of the delayed portion of the delivery. If accepting partial delivery cannot be reasonably expected of the Purchaser for economic reasons, it shall be entitled to rescind the contract and to demand reimbursement of any advance payments made. Any partial deliveries already effected shall not be affected by this rescission of contract.

- 4.4. The Purchaser shall not have any rights or claims due to delay in delivery or rendering of services save for those expressly specified in section 4 hereof. This restriction shall not apply to fraudulent intent or gross negligence on the part of Daxtro, however it does apply to the fraudulent intent or gross negligence on the part of persons employed or appointed by Daxtro to perform any of its obligations.

## **5. Transfer of Benefit and Risk**

- 5.1. The benefit and risk shall pass to the Purchaser upon delivery being effected ex works or upon notification to the Purchaser of readiness of the items ordered for shipment. If the Purchaser fails to collect or accept the goods, or if it infringes any other duty to cooperate, Daxtro shall be entitled to ask for the compensation of any resulting damage, including any extra expenses. From the time of readiness of the products and/or components for shipment the consignments will be stored at the expense and risk of the Purchaser at a rate of 0.1% per month as calculated on the payable contract price.
- 5.2. Upon purchasing Daxtro's products and/or components, the Purchaser is granted the right to use them for their designated purpose, subject to all the rules and regulations pertaining to their use and maintenance. All other rights to the products and/or components, in particular Daxtro's intellectual property rights, are Daxtro's rights and Daxtro's rights alone, and are not transferred by virtue of the sale of its products and/or components.

In particular, the use of the software and firmware on other hardware is expressly prohibited. The following is also prohibited: reverse engineering, software pirating (use of the software and firmware on other products, copying or extracting the software or firmware, etc.). Any such acts shall result in all utilization rights pertaining to the products and/or components supplied to the Purchaser becoming null and void, effective immediately, without the Purchaser being entitled to any reimbursement of the purchase price.

## **6. Examination and Acceptance of Deliveries and Services Rendered**

- 6.1. Daxtro inspects and tests the products and/or components prior to shipment within the framework of the production testing conducted by it. In the event that the Purchaser should want Daxtro to perform testing and inspection extending beyond this, the type and extent thereof have to be specifically agreed upon, confirmed in the confirmation of order, and paid for by the Purchaser.
- 6.2. It is recommended that the Purchaser tests the products and/or components itself to determine their suitability for the intended purpose or use. This extends in particular to the integration of the products and/or components in designated systems and verifying whether the properties and characteristics indicated on the specification sheet are actually complied with in the system environment proposed by the Purchaser. The products and/or components are not certified for use in applications relevant to security, consequently it is the duty of the Purchaser to ensure, by taking suitable measures, that when using the products and/or components together with other products any malfunctions are prevented or compensated for by taking additional security measures.
- 6.3. The Purchaser shall examine the goods supplied and services rendered by Daxtro within a reasonable period of time and make notification to Daxtro in writing of any defects within 30 days. In the event that the Purchaser should fail to do this, the goods supplied, and services rendered shall be deemed to have been accepted.
- 6.4. Daxtro shall remedy the defects of which notification has been made to it pursuant to section 6.3 as quickly as possible, for which the Purchaser is to afford Daxtro the proper opportunity.
- 6.5. The Purchaser shall not be entitled to any rights or claims for defects of any kind pertaining to the goods supplied and services rendered save for those expressly specified in sections 7 - 9 hereof.

## **7. Warranty / Liability for Defects**

- 7.1. Daxtro's product's and/or component's attributes and features are exhaustively covered and definitively specified in the specification data sheet. Any proof having to be furnished to show that the attributes and features of the products and/or components are adhered to is to be exclusively furnished in Daxtro's facilities by way of a test set-up in accordance with the specified type test.

Daxtro's warranty pertains exclusively to the product's and/or component's attributes and features stated in the specification sheet or to the features specifically stated in the confirmation of order (cf. Section 2).

Daxtro's warranty and liability shall become null and void in the event that proof cannot be furnished showing that the products and/or components have been used for their designated purpose and in compliance with all of Daxtro's rules and regulations pertaining to their use, operation and maintenance.

The following damage is excluded from Daxtro's warranty and liability: damage as the result of natural wear and tear, improper maintenance, non-compliance with the operating instructions, operation in an impermissible area, excessive stress and loading, unsuitable production facilities, chemical or electrolytic influences, repair work not performed by Daxtro, and/or other reasons for which Daxtro cannot be held accountable.

7.2. The warranty period amounts to 24 months. It begins upon delivery ex works or upon notification to the Purchaser of readiness the items ordered for shipment.

The warranty period can be extended to a maximum of 36 months at the request and expense of the Purchaser. The costs therefor amount to 0.4% per month, and thus to a maximum of 4.8%, calculated on the basis of the contract price of the entire delivery. The Purchaser has to expressly request an extension of warranty, whereupon this is stated in the confirmation of order.

7.3. In the event that the Purchaser asserts a defect pursuant to section 7.1, it shall document the defect so that Daxtro is able to reproduce it within a reasonable period of time. In cases of doubt, the defect shall be deemed to have been caused by external influence. In this case, the Purchaser shall assume payment for repair or replacement.

In the event that the Purchaser asserts a defect, however Daxtro tests the product and/or component and cannot find any defect which is attributable to it, the Purchaser shall assume the costs of testing. The costs incurred by Daxtro in troubleshooting and locating the defect will be invoiced by it on a time-and-means-spent basis. However, in such case a minimum lump-sum handling fee of CHF 150.00 will apply per case of repair

7.4. A serial defect is deemed to be present when at least 30% of like products or components thereof delivered to the same Purchaser are affected by similar causes of defect pursuant to section 7.1 and are found to be defective pursuant to section 7.3 during the warranty period pursuant to section 7.2. Defects which are found to be attributable to the software or are associated with the software shall not constitute serial defects.

In the event that a serial defect occurs, apart from remedying the defect Daxtro shall also be obligated, pursuant to section 7.5, to repair or replace all products and/or components featuring the same technical design, or components thereof, at its expense, including those which have functioned properly up until that time (e.g. design changes, replacement of a component by another, improved or more suitable component). This obligation shall apply to all products and/or components contained in the same order and by the same Purchaser.

7.5. Daxtro's warranty is limited to repair or replacement, at Daxtro's choice and in Daxtro's facilities, of all components of the delivery which have become damaged or unusable despite proper use as prescribed. The Purchaser must deliver the defective products and/or components to Daxtro at its own expense, within the warranty period.

The warranty period starts anew for replaced or repaired products and/or components and lasts 6 months as from replacement or conclusion of repair work. This period cannot be extended. However, it applies irrespective of any lapse of the warranty period pursuant to section 7.2.

The warranty shall elapse prematurely in the event that the Purchaser or third party perform improper modifications or repair work or when, in the event that a defect has occurred, the Purchaser fails to take all the measures necessary and suitable to minimize damage and doesn't afford Daxtro an opportunity to remedy the defect.

7.6. The Purchaser shall not be entitled to any rights or claims for defects in material, design or manufacture or for the lack of warranted characteristics or for serial defects, except for those expressly specified in sections 7.1 to 7.5 hereof.

## **8. Exclusion of Further Liability on the Part of Daxtro**

- 8.1. All entitlements and claims of the Purchaser resulting from warranty and liability as well as any other claims of the Purchaser, irrespective of the legal grounds on which they are based, are exhaustively covered and definitively specified in the confirmation of order and herein. This means that any and all non-expressly indicated claims for compensation for damage or loss, reduction in the (purchase) price, and suspension or rescission of the contract pursuant to section 10.1 are precluded.

In the case of warranty or serial defects, the Purchaser shall in no event be entitled to claims for compensation for any incidental, special, indirect or consequential damage whatsoever which does not arise directly in the items delivered as such, this including but not being limited to damages for loss of or non-realized business profits, business interruption, production down times, loss of use, installation and removal of components, loss of business information, loss of business, non-realized savings, interest losses, or any other pecuniary loss) as well as any and all other incidental, special, indirect or consequential damage.

- 8.2. Daxtro only warrants the characteristics of the products and/or components pursuant to section 2 and does not assume any warranty for the suitability or fitness of its products and/or components in the Purchaser's system environment. The Purchaser, and it only, is responsible for integrating the products and/or components in its system environment.
- 8.3. This exclusion of liability shall not apply to unlawful intent or gross negligence on the part of Daxtro. In addition, this exclusion of liability shall not apply in the event that it runs counter to mandatory legal provisions.

## **9. Replacement Parts**

- 9.1. During the warranty period Daxtro guarantees follow-up deliveries of functionally compatible products and/or components complying with the specification sheet.
- 9.2. Replacement parts are deemed to extend to all functionally compatible products and/or components which are capable of providing for the functionality of the original product and/or component in as similar a fashion as possible. However, no identicalness is guaranteed of the design, method of manufacture, or function. To be sure, the Purchaser is cognizant of the fact that the longer the period of time between the original product and/or component and the replacement product and/or component, the more the latter deviates from the former and the more adaptations Purchaser will have to make to the software and hardware of the adjoining products in the system environment.

In the event that, in order to use the replacement parts, adaptations also have to be made to adjoining products on account of technological advances, they shall be performed by the Purchaser on its own responsibility. To this end, Daxtro will make available to the Purchaser the specification sheet of the replacement product and/or component.

- 9.3. The Purchaser is cognizant of the fact that Daxtro does not maintain any stocks of replacement parts unless this has been specifically agreed upon.

## **10. Rescission of Contract; Modifications and Amendments**

- 10.1. The Purchaser shall not be entitled to modification or amendment of the contract subsequent to it being concluded pursuant to section 1.2. The Purchaser is obligated to examine the

confirmation of order carefully and to notify Daxtro in writing of any discrepancies within 48 hours upon receipt thereof. In the absence of any such notification, the confirmation of order shall be deemed to be the sole binding agreement between the parties hereto.

- 10.2. Either party shall be entitled to withdraw from the contract pursuant to section 1.2 within 5 days upon issuing of the confirmation of order by way of giving written notice of termination without incurring any on-costs or consequential charges. Once this 5-day period has elapsed the Purchaser shall no longer be entitled to withdraw from the contract and the Purchaser shall hold Daxtro harmless in the event that it wishes to withdraw from the contract whether in whole or in part.
- 10.3. Unless specified otherwise in the confirmation of order, the Purchaser shall not be entitled to return or exchange products and/or components that have been supplied.

## **11. Compliance with Export Control Regulations**

- 11.1. If the Purchaser transfers Goods (hardware and/ or software and/ or technology as well as corresponding documentation, regardless of the mode of provision) delivered by Daxtro or works and services (including all kinds of technical support) performed by Daxtro to a third party the Purchaser shall comply with all applicable national and international (re-) export control regulations. In any event of such transfer of goods, works and services the Purchaser shall comply with the (re-) export control regulations of the Swiss Confederation, of the European Union and of the United States of America.
- 11.2. Prior to any transfer of goods, works and services provided by Daxtro to a third party the Purchaser shall in particular check and guarantee by appropriate measures that:
  - a) there will be no infringement of an embargo imposed by the Swiss Confederation, by the European Union, by the United States of America and/ or by the United Nations by such transfer, by brokering of contracts concerning those goods, works and services or by provision of other economic resources in connection with those goods, works and services, also considering the limitations of domestic business and prohibitions of by-passing those embargo;
  - b) such goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;
  - c) the regulations of all applicable Sanctioned Party Lists of the Swiss Confederation, the European Union, the United States of America and/ or the United Nations concerning the trading with entities, persons and organizations listed therein are considered.
- 11.3. If required to enable authorities or Daxtro to conduct export control checks, the Purchaser, upon request by Daxtro, shall promptly provide Daxtro with all information pertaining to the particular end customer, the particular destination and the particular intended use of goods, works and services provided by Daxtro, as well as any export control restrictions existing.
- 11.4. The Purchaser shall indemnify and hold harmless Daxtro from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance with export control regulations by the Purchaser or third parties under the control of the Purchaser, and the Purchaser shall compensate Daxtro for all losses and expenses resulting thereof.

## **12. Governing Law, Venue**

- 12.1. These General Terms and Conditions shall solely be governed by and construed in accordance with Swiss law without giving regard to any conflict of law rules. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly precluded.

The ordinary courts of Hinwil (Switzerland) shall have sole jurisdiction with regard to any and all disputes arising from or in connection with these General Terms and Conditions.

- 12.2. If any provision of this Agreement is held to be or becomes invalid or unenforceable, this shall not affect the validity of the remaining provisions.