

# General Terms and Conditions of Purchase for ATC GmbH

## § 1 General stipulations, scope

1. These General Terms and Conditions of Purchase shall apply to all business relations of ATC GmbH (referred to in the following as: "ATC") with its suppliers (referred to in the following as: "the Supplier"). The General Terms and Conditions of Purchase shall only apply if the Supplier is a business entity, a legal entity governed by public law or a special asset governed by public law.
2. The General Terms and Conditions of Purchase shall in particular apply to contractual agreements pertaining to the purchase and/or supply of moveable objects (also referred to in the following as "the goods") without prejudice to whether the Supplier manufactures the goods itself or purchases such from suppliers (§ 433, § 651 of the German Civil Code). The General Terms and Conditions of Purchase apply in their respectively valid version as a framework agreement including for future agreements on the purchase and/or the supply of movable objects with the same supplier without ATC having to make reference to such in each individual case.
3. Solely the General Terms and Conditions of Purchase of ATC apply. Any different, contrary or amending general terms and conditions of the supplier shall not be part of the supply and business relationship and hence not part of any agreement with ATC. The General Terms and Conditions shall also apply if ATC accepts the goods without reservation in awareness that the supplier has different, contrary or amending general terms and conditions. Silence shall not be deemed to constitute recognition of contrary general terms and conditions.
4. Declarations and notifications of legal importance that are to be issued by the Customer to ATC before and/or after conclusion of an agreement (for example, the setting of deadlines, notices of defect, declarations of withdrawal from the agreement or reduction in price) must always be in writing to be effective (data transmission by e-mail or telefax shall be deemed to suffice). This also applies to changes and amendments of the contractual covenants and agreements.

## § 2 Conclusion of the Agreement

1. The agreement shall be concluded by ATC placing an order and acceptance of such by the Supplier. A purchase agreement shall only come into effect upon acceptance of the order by the Supplier. Any changes or amendments to the order by the Supplier shall be deemed to constitute rejection of the order if the changed acceptance is not confirmed by ATC.
2. Order and acceptance must be declared in writing. The writing form shall also be deemed to be respected in the case of transmission by telefax or e-

mail. Any agreements concluded verbally or by means of telecommunications resources require written confirmation by ATC to be valid.

3. Orders placed by ATC must be accepted by the Supplier within a period of 14 calendar days after the Supplier receives such. ATC shall be entitled to cancel the order after expiry of this period.
4. ATC may also demand changes be rendered to the subject of the agreement after conclusion of the agreement if such changes can be reasonably expected of the Supplier. The effects of such on both parties concluding the agreement, in particular additional or lower costs and delivery dates, shall at the same time be adequately taken into account.
5. ATC shall retain title to all catalogues, technical documentation (for example drawings, plans, calculations, reference to DIN standards), other descriptions of production or documents – including in electronic form. These documents may not be made available to third parties without the prior written consent of ATC. Such documents shall be returned to ATC following the completion of all deliveries in connection with such documents.

## § 3 Delivery period and delay in delivery

1. The delivery date shall be stated by ATC upon placement of the order or individually agreed upon. The stated or agreed-upon delivery dates shall be deemed to be binding and shall be adhered to by the Supplier. The receipt of the goods at the location stated by ATC in the order shall apply in determining whether the delivery date has been adhered to.
2. The Supplier shall be obligated to notify ATC about any and all impending failure to meet a delivery date, its causes and the probable duration of the delay without undue delay. This shall not affect any claims resulting from delay in delivery.
3. If delivery deadlines are in actual fact not met, the Supplier shall be deemed to be in delay in effecting delivery without this requiring any special notification of delay. If the Supplier comes into delay, it shall be obligated to notify ATC in writing about the delay in delivery. In the event of delay, the Supplier shall be obligated to pay lump-sum damages in the amount of 1% of the net price of the consignment involved per calendar week, but no more than a maximum total of 5%. Statutory provisions shall apply above and beyond this in the event of failure to meet a delivery date. In particular, after setting a grace period without delivery being effected, ATC shall be entitled to withdraw from the Agreement and demand greater compensation instead of performance.
4. In the event of delivery before the delivery date, ATC shall be entitled to return the goods to the Supplier. The Supplier shall bear the costs of return. If ATC decides not to return the goods, ATC shall store the

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goods until the delivery date at the expense and risk of the Supplier.

- Force majeure, disruptions of operations for which ATC is not responsible, unrest, government measures and other unavoidable events shall free ATC from the obligation to carry out acceptance in due time for the period of time that such events have an impact. During such events as well as two weeks thereafter, ATC shall be entitled – notwithstanding any other rights – to withdraw from the agreement in whole or in part if this event does not last a considerable period of time and the needs of ATC have decreased as a result of having to procure the goods elsewhere. ATC shall in such cases not be obligated to compensate the Supplier for the costs it incurs.

### § 4 Delivery, packaging, transfer of risk

- ATC shall be notified of consignments by means of a dispatch note. The dispatch note must contain at a minimum information on the type, quantity and weight of the goods. Dispatch notes, waybills, invoices and any and all other correspondence must contain the ATC order number. A delivery note in duplicate containing all the data necessary for execution of the delivery shall be attached to all consignments.
- Packaging material may only be used on the scale required and shall be taken back by the Supplier in accordance with the German Packaging Regulations (Verpackungsverordnung) free of charge. The place of performance for the obligation to take back packaging is the place where the goods are handed over. Notwithstanding this, objects that are intended for shipment must be properly packaged. Any losses and/or damage to the consignment caused by failure to abide by this obligation shall be borne by the Supplier.
- Delivery shall be effected to the ATC plant in Liebenscheid unless another place of performance has been agreed upon by ATC and the Supplier. Delivery must comprise the entire scope of the order. Partial deliveries shall generally not be allowed unless ATC has expressly agreed to partial delivery or such is reasonable to expect of ATC.
- Risk of accidental loss and accidental deterioration of the goods shall be transferred with due and proper handover of the goods to the acceptance point in charge at ATC or upon the handover of the goods to a party commissioned by ATC. Prior to handover of the goods solely the Supplier shall bear the risk of accidental loss and accidental deterioration of the goods. Staff of ATC shall act in the capacity of party hired by the Supplier to carry out the agreement in the delivery of the goods.
- A possible delay in acceptance shall be assessed in accordance with statutory provisions. The Supplier must also offer ATC the service, however, in those

cases in which a certain time has been agreed upon for the action and/or cooperation by ATC. Notwithstanding this, if ATC is late in effecting acceptance, the Supplier may also demand compensation for its expenses in accordance with statutory provisions.

### § 5 Prices, invoices, terms and conditions of payment

- Subject to the reservation of agreements to the contrary, prices of the Supplier are free acceptance point of ATC including all transport, secondary packaging and main packaging costs. This does not include value-added tax.
- Invoices that become due shall be issued in EUROS. All invoices must be sent to ATC in duplicate after delivery is effected and state the invoice number and all other data allowing the invoice to be linked to the goods supplied and be accompanied by all other documents and data belonging to it. Invoices shall be sent to the respective address stated in the order. Invoices must not be attached to consignments of goods.
- Invoices shall be paid as ATC sees fit either within 14 days minus a 3% discount or within 30 days net after the claim to remuneration becomes due and receipt of the invoice by ATC. If the invoice is received before the goods, the period of payment shall commence upon receipt of the last part of the consignment. Payment is made subject to the verification of the respective invoice.

### § 6 Assignment, offsetting, rights of retention

- Transfer of the entire or partial execution of the order to third parties as well as assignment of claims emanating from the contractual relationship shall require the prior written consent of ATC. This requirement that consent be provided shall not apply to the assignment of claims to money emanating from this Agreement. If the assignment of claims from this agreement becomes effective without consent, ATC may effect payment to the Supplier in the capacity of current creditor with discharging effect.
- ATC reserves the right to exercise unlimited statutory offsetting and retention rights. The Supplier may only exercise offsetting or retention rights with claims of ATC if such are undisputed or have been recognised by a court of law or government authority.

### § 7 Reservation of title

- ATC shall retain title to material that may be transferred by ATC to the Supplier for processing within the framework of the business relationship and title to drawings, graphics, illustrations, diagrams, calculations and other such documents. The Supplier shall be entitled to process and/or use the material and/or documents to which title is reserved within

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the course of proper business. In such case, the following provisions shall apply by way of amendment.

2. The reservation of title also includes products that come about through processing, mixing or combining of materials in their full value, whereby ATC shall be deemed to be the manufacturer. If property rights of third parties remain in the processing, mixing or combined with their goods, ATC shall acquire title to the processed, mixed or combined good in the ratio of the invoice values. The same shall furthermore apply to the product that comes about as applies to material handed over that is subject to reservation of title.
3. Material may only be combined with other moveable objects which are to be deemed to the main object with the prior written consent of ATC. The Supplier shall be liable towards ATC for loss or damage to the property of ATC.
4. Reservations of title by the Supplier shall only apply if these relate to the payment obligations of ATC for the respective services affected (simple reservation of title). Expanded or extended reservations of title are excluded.

### § 8 Obligation to report defects and warranty claims

1. Goods accepted by ATC shall be subject to the proviso that they be inspected to ensure that they are free of any defects if and to the extent that this is feasible within the framework of proper business procedures. In the case of visible defects to the goods supplied, it shall suffice for ATC to meet its obligation to report defects by providing notification of the flaws within a period of 14 days after delivery of the goods. In the case of hidden defects, it shall suffice for ATC to report defects within a period of 14 days after discovering the defect. The Supplier thus waives the plea of defects being reported too late.
2. The Supplier shall bear unrestricted liability for goods supplied in accordance with statutory provisions relating to material and legal defects. The Supplier shall furthermore bear liability in accordance with the following stipulations.
3. ATC shall be entitled to repair the goods supplied at the expense of the Supplier if ATC has a special interest in using the goods quickly as a result of the circumstances of the individual case, in particular to prevent impending damage, and due to time constraints it is not possible for the Supplier to repair the goods. ATC shall notify the Supplier hereof in writing, by telefax or e-mail before the beginning of the repair work.
4. If ATC incurs costs as a result of supply of defective subjects of the agreement, in particular transport, road costs, labour, mounting, dismantling or material costs or costs in connection with checks and controls that go above and beyond the usual scope, the Supplier shall bear these costs. In particular, return

to the Supplier of goods which are objected to shall be at the cost and expense of the Supplier.

5. The Supplier warrants and assures that the goods are free from the rights of third parties and that no rights of third parties are violated by the supply or use of the goods. The Supplier shall make it possible for ATC to use the goods including any possible repairs, changes or additions to the goods supplied in Germany and abroad. In the event that other parties' rights are violated, ATC shall have a right to indemnification by the Supplier from rights of third parties without prejudice to culpability on its part. ATC shall furthermore be entitled to a claim against the Supplier for compensation for the damage incurred.
6. The warranty period shall be 36 months commencing with the transfer of risk – except in cases of bad faith. This shall not affect the right to claim longer statutory periods of warranty. If the Supplier meets its obligation to subsequently fulfil the agreement by supplying a substitute, a new warranty period shall commence following its delivery unless in subsequent performance the Supplier has expressly and rightly established the proviso that the replacement delivery is only being undertaken out of good will, to avoid dispute or in the interest in the continuation of the supply relationship.

### § 9 Information obligations, in particular relating to export restrictions

1. Notwithstanding any other information obligations stipulated in an Agreement, each party shall support the other party in providing that information and those documents (referred to in the following as: information) which are necessary to meet respective export control laws and regulations or which, in accordance with requirements applied, are requested by government authorities in this connection, in particular with respect to approvals and permit procedures.
2. In particular, the Supplier shall inform ATC when the goods supplied or important elements of such are subject to export restrictions on goods under German (in particular Annex 1, part 1, Annex AL pursuant to the Foreign Trade Regulation, AWV) or under European law (in particular Annex I, Dual-Use Regulation 428/2009). No. 2 of the General Notes on Annex I Dual-Use Regulation 428/2009 specifies in the same words as the Foreign Trade Regulation in what cases elements of goods are deemed to be significant elements.
3. The information obligation shall not be excluded by possible non-disclosure obligations that have been concluded previously. If need be, exemption from a non-disclosure obligation concluded previously may be demanded if applicable export-control regulations require that technical details be transmitted to the government authorities involved.

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## § 10 Supply of goods not subject to export restrictions

The Supplier shall be obligated to prioritise the use of goods and important elements of such that are not subject to any export restrictions in the meaning of § 9, section 2.

## § 11 Other liability

1. If nothing to the contrary emanates from these General Terms and Conditions of Purchase, the Supplier shall be liable for a violation of contractual and non-contractual obligations in accordance with statutory provisions.
2. If claims are asserted against ATC as a result of defects based on product liability or for violation of safety and security provisions, the Supplier shall indemnify ATC from any and all liability upon the first demand and bear all costs and expenses incurred by ATC to the extent that the goods supplied by the Supplier were defective or caused the damage. In cases of liability contingent on culpability, this shall only apply, however, if the Supplier is culpable. If the cause of the damage lies in the domain of responsibility of the Supplier, the Supplier shall bear the burden of proof that there has been no culpability.
3. If the services owed by the Supplier involve parts that under the agreement are intended for installation in an aircraft, in addition to the general third-party liability insurance policy and a product-liability insurance policy the Supplier shall take out and maintain an expanded aviation product-liability insurance policy with sufficient coverage. The aforementioned obligation shall not apply to the extent that the risk of the specific contract is already covered by the general third-party liability insurance policy and/or the product-liability insurance policy. The Supplier shall submit evidence that all insurance policies have been taken out if so requested by ATC.
4. Any claims to damage against ATC may only be asserted in the case of wilful intent or gross negligence. In the event of culpable violation of important contractual obligations, ATC shall only be liable for damage typical of the agreement which could have reasonably been foreseen. The aforementioned restriction on liability shall not apply in cases in which ATC is liable for persons or material under the German Product Liability Act (Produkthaftungsgesetz) as well as in cases of harm to life and limb or impairment to health.

## § 12 Termination of the Agreement and non-disclosure

1. In addition to statutory rights ATC shall be entitled to withdraw from or termination of the Agreement immediately if the Supplier discontinues supplying its customers, if there is a significant deterioration in the financial standing of the Supplier or such is impending and as a result the Supplier's fulfilment of

its supply obligation towards ATC is jeopardised, if the Supplier meets the statutory definition of insolvency or excessive debt or if the Supplier discontinues effecting payment. ATC shall also be entitled to withdraw or terminate the Agreement if the Supplier applies for the opening of an insolvency proceeding or a comparable proceeding to reschedule debt on its assets is opened.

2. If ATC makes use of the aforementioned rights of withdraw or termination, the Supplier shall compensate ATC for the damage it incurs as a result thereof unless the Supplier is not responsible for the rights of withdraw or termination coming about. This shall not be associated with any restriction on any other statutory claims.
3. ATC shall furthermore be entitled to withdraw or terminate the Agreement if the goods to be delivered are to be installed in a larger good that has to be manufactured by ATC and which is planned to be used in an EU member state or for export to a third country, and if the government authority in charge
  - a. rejects the import/export permit or
  - b. fails to issue the required (export/import) permit within a period of 3 (in words: three) months after the date scheduled for the delivery of the larger good.
4. ATC may moreover withdraw from the Agreement towards the Supplier if the customer of the larger good in which the good that is to be supplied is to be installed takes actions that encourage violation of applicable export control regulations of the Federal Republic of Germany or the European Union, that causes such violation or if there is a possibility that such violation may take place, in particular if there are justified reasons to believe that the good is not to be used for the purpose as stated, but rather for an illegal purpose.
5. The Supplier shall be obligated to treat all business or technical information that is not public and that it becomes aware of through the business relationship with ATC confidentially. It shall subject its upstream suppliers and subcontractors to similar obligations. The non-disclosure obligation shall also continue to apply after the end of the business relationship.

## § 13 Place of performance, governing law and legal venue

1. The place of performance is the place at which the goods are to be supplied in accordance with the order. The place of performance for payments effected by ATC is the head office of ATC.
2. These General Terms and Conditions of Purchase and all legal relationships between ATC and the Supplier shall be governed by the law of the Federal Republic of Germany. UN purchasing law (CISG) is excluded.

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- 3.** The sole legal venue for all disputes directly or indirectly emanating from the contractual relationship shall be the courts having jurisdiction over the head office of ATC. ATC shall also be entitled, however, to take legal action at the general legal venue of the Supplier.
- 4.** If one or more of the Terms and Conditions of Purchase herein should be invalid as a result of statutory provisions, this shall not affect the remaining provisions. ATC and the Supplier shall both be obligated to fill in any gap that comes about as a result of an invalid stipulation with a provision that comes as close as possible to the economic purpose of the arrangement that has been eliminated.

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