



General Terms and Conditions of ATV Technologie GmbH for Sales Contracts and Contracts for Work and Materials

1. General

1.1 These General Terms and Conditions (hereinafter: "GTC") apply to all sales contracts and contracts for work and materials of ATV Technologie GmbH (hereinafter: "ATV") with all its contractual partners (hereinafter: "Customer") who are entrepreneurs, legal entities, legal persons under public law or special funds under public law.

1.2 All services of ATV are provided exclusively on the basis of these GTC; this also applies to any amendment of any kind and future purchase and work supply contracts.

1.3 Any terms and conditions of the customer that contradict or deviate from these GTC and whose validity is not expressly acknowledged by ATV in written form shall not apply.

1.4 Individual agreements made with the customer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTC. A written contract or the written confirmation of ATV is decisive for the content of such agreements, subject to proof to the contrary.

2. Offer, Conclusion of Contract, Documents

2.1 All offers of ATV are subject to change and not legally binding. The written order confirmation of ATV is decisive for the conclusion of the contract and its content.

2.2 ATV reserves the property rights and copyrights to all documents - also in electronic form - provided to the customer in connection with the placing of an order (e.g. illustrations, drawings, sketches, calculations, other calculations, etc.). The customer may not make these documents available to third parties, unless ATV gives its written permission. If no contract is concluded, the customer must immediately return any documents provided to ATV; the customer must delete electronically provided documents completely and permanently.

3. Prices, Packaging

3.1 The prices of ATV are always net ex works (Johann-Sebastian-Bach-Str. 38, 85591 Vaterstetten) (EXW, INCOTERMS2020) plus the statutory value-added tax ("VAT") applicable on the day of invoicing.

3.2 All packaging included in the offer is suitable for air freight. The costs of packaging for other means of transport shall be borne by the customer in the event of additional effort. ATV may choose to charge an appropriate flat rate or the effective costs.

4. Due date, Terms of Payment, Offsetting, Right of Retention

4.1 Payments are due on receipt of invoice. Objections to an invoice must be made in written form and within 14 days after receipt of the invoice.

4.2 Payments are to be transferred to the account of ATV within the agreed payment period in EURO and in full, without discounts or other deductions. Bank charges incurred by foreign payments are to be borne by the customer.

4.3 The payment is only considered to be completed when ATV has the full amount invoiced at its free disposal, free from third party claims. This applies in particular to cheques, bills of exchange, letters of credit and money orders.

4.4 The offsetting of payment claims against counterclaims of the customer is excluded, unless it is an undisputed claim of the customer which has been legally established or proven ready for decision. The customer is only authorized to exercise a right of retention to the extent that his counterclaim is based on this (the same) contractual relationship.

4.5 If the customer's financial situation deteriorates considerably, which gives rise to doubts about his creditworthiness (in particular in the case of protested bills of exchange and cheques, default of payment, default of payment for other deliveries or enforcement measures), ATV may, subject to ATV's other rights, demand advance payment of the purchase price or the provision of equivalent security. If the customer fails to do so, ATV shall be entitled to withdraw from the contract.

5. Delivery, Delivery Time, Self-Delivery Clause, Partial Deliveries, Passing of Risk, Connection and Installation

5.1 A delivery and delivery time is only binding for ATV if it is agreed in written form. In this case the following clauses 5.2 to 5.8 shall apply.

5.2 The adherence to agreed delivery date is subject to the customer fulfilling his contractual obligations. The objection of the unfulfilled contract remains reserved.

5.3 The adherence to agreed delivery date is further subject to the proviso that ATV itself is supplied correctly and on time.

5.4 The parties agree on the relevant date for compliance with the delivery date. The risk of accidental loss and accidental deterioration of the product shall pass to the customer at this point in time.

5.5 The delivery period shall be extended - even within a delay - appropriately in case of force majeure and all unforeseeable obstacles occurring after conclusion of the contract, which ATV is not responsible for, by the duration of the obstacle to performance. This applies regardless of whether these obstacles occur in ATV's factory or at the subcontractors, e.g. industrial action, loss of work due to an unforeseeable wave of illness of skilled workers, procurement difficulties with spare parts, the breakage of specially shaped parts required for the production of the product, delays in the delivery of essential raw materials and building materials, in the event of official interventions and in the absence of official or other permits. Force majeure in the aforementioned sense shall be deemed to exist in particular in the event of epidemics and other outbreaks of diseases and pandemics.

5.6 Subsequent amendments to the contract which influence the delivery time shall prolong it to a reasonable extent.

5.7 Partial deliveries are permitted and will be invoiced separately. Section 4. of these GTC applies accordingly.

5.8 ATV shall only owe the connection or installation of the product at the customer's premises if explicitly agreed; this constitutes a separate service. The time of the passing of risk shall not be affected by any connection or installation of the product to be carried out by ATV.

6. Default of Acceptance, Default of Payment

6.1 If the customer is in default with the acceptance of the delivery, ATV is entitled to deposit the subject matter of the contract in a public warehouse or otherwise in a safe manner at the risk and expense of the customer.

6.2 If the customer refuses to accept the product after the expiration of a reasonable grace period set by ATV, or if the customer previously declares finally and seriously that he does not want to accept the product, ATV may withdraw from the contract and claim for damages instead of performance. ATV may claim a lump sum of 20 % of the agreed purchase price as compensation. ATV reserves the right to claim higher damages. The Customer is free to prove that no damage has actually occurred or that the damage incurred is less than the lump sum.

6.3 If the customer is in default with the payment of the purchase price or if he finally and seriously declares not to pay the purchase price, Section 6.2 shall apply accordingly.

7. Retention of Title, Processing or Transformation

7.1 The delivered product remains the property of ATV until all claims that ATV is entitled to against the customer at the time of conclusion of the contract or thereafter from the business relationship, including all balance claims from current account, have been fulfilled.

7.2 The customer must treat the reserved product with care. He must maintain it in proper condition, store it with commercial care and clearly mark it as the property of ATV at a widely visible place. Furthermore, he must insure it sufficiently at his own expense against fire, water and theft damage at replacement value. If maintenance and inspection work becomes necessary, the customer must carry it out in good time at his own expense.

7.3 The customer may use the reserved product and resell it in the ordinary course of business. However, he may not pledge the product subject to retention of title or transfer it by way of security.

7.4 By way of security, the customer assigns to ATV in full the customer's claims for payment against his customers from a resale of the reserved product as well as those claims of the customer with regard to the reserved product that arise for any other legal reason against his customers or third parties (in particular claims from tort and claims for insurance benefits), including all balance claims from current account. ATV accepts this assignment. The customer may collect these claims assigned to ATV on his own account in his own name for ATV as long as ATV does not revoke this authorization. The right of ATV to collect these claims itself shall not be affected by this; ATV shall not assert the claims itself and shall not revoke the direct debit authorization as long as the customer duly meets his payment obligations. However, if the customer behaves contrary to the contract - in particular if he is in default of payment of a claim for remuneration - ATV may demand that the customer informs ATV of the assigned claims and the respective debtors, notifies the respective debtors of the assignment and hands over all documents and information required by ATV to assert the claims.

7.5 The customer must inform ATV immediately about enforcement measures of third parties in the product subject to retention of title or in the claims assigned in advance, if possible by telephone, fax or e-mail, handing over the documents necessary for an intervention. ATV commits itself to release the security rights to which it is entitled according to the above provisions at its own discretion upon request of the customer to the extent that their realizable value exceeds the claim to be secured by 20%. The claim for release

arises when the estimated value of the security interest amounts to 150% of the secured claim.

7.6 If the product is taken back within the scope of the enforcement of the retention of title, ATV is entitled to compensation for expenses, transfer for use and depreciation. ATV can choose to calculate the compensation claims to which ATV is entitled either specifically or as a lump sum of 20% of the order price. In the case of a lump sum, the customer is free to prove that the compensation claims have not arisen or have arisen in a lower amount.

7.7 For export transactions in countries where the above mentioned retention of title is not legally effective, ATV reserves the right to secure the right of ownership according to the respective legal regulations of the receiving country. The customer is obligated to cooperate in this process, if necessary.

7.8 The processing or transformation of the product by the customer is always carried out on behalf of ATV. If the product is processed with other objects not belonging to us, ATV shall acquire co-ownership of the new object in the ratio of the value of the delivered object to the other processed objects at the time of processing. For the item resulting from processing, the same applies as for the product delivered under reservation of title.

8. Warranty

8.1 The customer must inspect the received product immediately upon arrival for completeness, defects, condition and any warranted properties. Obvious defects are to be reported to ATV within two weeks after arrival of the product, hidden defects within two weeks after discovery, by written notification. The warranty does not apply to defects that are not reported within this period of time.

8.2 In case of a defective product ATV has the right to choose whether to fix the defect or to deliver a new product free of defects against return ("Subsequent performance").

8.3 If the subsequent performance fails or is not carried out within a reasonable period of time, the customer shall be entitled to withdraw from the contract or to reduce the purchase price. Claims for damages and reimbursement of expenses shall remain unaffected, unless they are excluded under Section 9.

8.4 Excluded from warranty are:

8.4.1 Defects that only insignificantly reduce the value or the suitability of the product. An insignificant defect shall be deemed to exist in particular if the defect disappears of its own within a short period of time or can be remedied by the customer with quite insignificant effort.

8.4.2 Wear parts and consumables, especially IR-lamps/heaters, all quartz glass, ceramic and graphite carriers, thermo elements, fuses, lubricants, O-rings, seals, etc.

8.4.3 Defects that are due to inappropriate, improper or incorrect use of the product, incorrect assembly or commissioning, natural wear and tear, incorrect or negligent handling, negligence or failure to carry out appropriate maintenance, unsuitable operating materials, unsuitable subsoil, a change or removal of the distribution to the various installed networks, cooling water that does not meet the specifications of ATV, compressed air or other chemical or electro-chemical influences of the customer. Sentence 1 shall apply in particular if the customer disregards the service instructions of ATV when commissioning and operating the product.

8.4.4 Defects that are due to force majeure.

9. Liability

9.1 Unless otherwise stated in the following provisions, ATV shall be liable for any breach of contractual and non-contractual obligations in accordance with the statutory provisions.

9.2 ATV is liable for damages - for whatever legal reason - in the case of intent and gross negligence. In the case of simple negligence, ATV is only liable, subject to legal limitations of liability, for

9.2.1 damages resulting from injury to life, body or health,

9.2.2. damages resulting from the violation of an essential contractual obligation; in this case, however, ATV's liability shall be limited to compensation for the foreseeable, typically occurring damage.

9.3 The limitations of liability resulting from 9.2. shall also apply to third parties as well as in case of breaches of duty by persons whose fault ATV is responsible according to the statutory provisions. They shall not apply if a defect has been fraudulently concealed or a guarantee for the quality of the product has been assumed and for claims of the customer under the German Product Liability Act („Produkthaftungsgesetz“).

10. Limitation

10.1 Deviating from § 438 para. 1 No. 3 BGB, the general limitation period for claims arising from material defects and defects of title is one year from delivery.

10.2 Excluded from this is ATV's liability for intentional or grossly negligent breach of duty and liability for injury to life, body or health; in this respect the statutory limitation period applies.

11. Place of Performance, Place of Subsequent Performance

Place of performance and place of subsequent performance is the registered office of ATV (Johann-Sebastian-Bach-Str. 38, 85591 Vaterstetten/Germany).

12. Place of Jurisdiction, Applicable Law, Partial Invalidity, Headings

12.1 The place of jurisdiction for both parties for all direct and indirect, present and future claims arising from the business relationship is ATV's headquarters in Munich/Germany.

12.2 The contract is exclusively subject to the law of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

12.3 In the event of deviations or questions of interpretation, only the German version of these GTC shall prevail.

12.4 If individual points of the contract and these GTC are or become invalid, the remaining contract shall not be affected. The parties undertake to agree on a provision that is legally permissible and comes closest to what was intended.

12.5 The headings only serve to improve clarity and have no legal significance, in particular not that of a final regulation.

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