

**Terms and conditions of sale and delivery
of ATD-LabTech GmbH and ATD-Service (owner Gerhard Pfeifer)
Dreispitze 2 | 63867 Johannesburg | Germany**

1. Scope of application

The following terms and conditions apply to all deliveries, services and offers of ATD-LabTech GmbH and ATD-Service (owner Gerhard Pfeifer) (hereinafter referred to as "ATD"). Conflicting terms and conditions of the customer shall not become part of the contract even in the case of delivery without explicit objection.

2. Conclusion of contract, scope of services

- 2.1 ATD's offers and price lists are subject to change - in particular with regard to availability, stated quantities, delivery periods and ancillary services.
- 2.2 Information in offers, price lists and/or order confirmations of the contractor which are based on an obvious error, namely a typing or calculation error, do not oblige the contractor. Rather, the obviously intended explanation applies.
- 2.3 The price lists, offer documents, drawings, descriptions, samples and cost estimates of the contractor may not be passed on, published, duplicated or otherwise made accessible to third parties without the contractor's consent. Upon request, the documents are to be returned without retention of copies.
- 2.4 The scope of the deliveries and services to be provided by ATD shall result from the respective order confirmation; these General Terms and Conditions of Business shall apply in addition.
- 2.5 We reserve the right to make customary deviations from the scope of delivery/service. ATD also reserves the right to deviate from the scope of services due to the consideration of changes to mandatory legal or technical standards which take effect after the order confirmation.
- 2.6 Design changes are also permissible if and to the extent that the change is reasonable for the customer, taking into account the interests of both parties.
- 2.7 ATD shall be entitled to make partial deliveries and partial performances to a reasonable extent for the customer.
- 2.8 Deadlines, in particular delivery dates, are only binding if they have been confirmed as binding in writing. The delivery periods stated by ATD will be adhered to as far as possible.

- 2.9 Delivery and performance periods shall be extended appropriately in the event of force majeure and all other hindrance of performance for which ATD is not responsible, in particular strikes or lock-outs at ATD, its suppliers or other sub-suppliers. Force majeure includes all unforeseeable events or such events which, even if they were foreseeable, are beyond the control of the contracting parties and whose effects on the performance of the contract could not have been prevented by reasonable efforts of the contracting parties. The risk of trafficability of the roads lies with the client.
- 2.10 Shipment is exclusively at the expense and risk of the customer (ex works - EXW - in accordance with Incoterms 2020). This includes free deliveries and internal transports, as well as transports and deliveries to subcontractors (e.g. calibration and repair services).
- 2.11 A separate transport insurance can be taken out for each individual transaction, proof of the current value of the goods must be provided for this purpose. A lead time of at least two working days is to be expected. The costs for this insurance benefit including organizational expenses shall be borne by the client.
- 2.12 If the mode of dispatch has not been agreed, the choice of transport route and means of transport shall be at ATD's discretion. ATD does not, however, assume any obligation to use the most cost-effective shipping option.

3. Prices, price changes

- 3.1 Unless a fixed price has been agreed, ATD's services shall be remunerated in accordance with the price list valid at the time the order is accepted.
- 3.2 ATD shall not be bound by the stated prices if a delivery period longer than six months from order confirmation has been agreed. In this case, the prices valid at the time of delivery will be invoiced.
- 3.3 All prices are net in EURO plus the respectively valid legal value added tax, without other deductions. Delivery is ex works without engagement, including original packaging.

4. Terms of payment

- 4.1 Unless otherwise agreed, the purchase price is due upon dispatch of the goods or after performance. Invoices from ATD are to be paid net 14 days after the invoice date.
- 4.2 In the event of default in payment ATD may charge default interest in the amount of 8% above the statutory default interest rate. We reserve the right to claim further damages.
- 4.3 ATD reserves the right to carry out deliveries only against cash on delivery or concurrently against provision of reasonable security on the part of the customer. The customer must

provide the security before dispatch of the goods. If the customer does not accept a cash on delivery shipment or refuses to provide a security, ATD shall be entitled to withdraw from the contract. Other rights of ATD, in particular the assertion of claims for damages due to default of acceptance on the part of the customer, shall remain unaffected.

- 4.4 Offsetting and retention are excluded, except in the case of legally established or undisputed counterclaims.

5. Retention of title

- 5.1 ATD retains title to the delivered goods until full payment of all claims arising or arising from the business relationship, for whatever legal reason, including old and conditional claims.
- 5.2 The customer shall keep the reserved goods in safe custody for ATD with commercial diligence and insure them sufficiently at his own expense against fire, water, theft and other risks of damage. The customer assigns its corresponding claims under the insurance contracts to ATD upon conclusion of this agreement. ATD accepts the assignment.
- 5.3 The customer may sell the goods still owned by ATD only in the ordinary course of business and as long as he is not in default with ATD. In the event of the resale of such goods, the customer assigns to ATD the resulting claim against its customer in the amount of the purchase price owed to ATD; ATD accepts the assignment. The assigned claim shall serve ATD as security to the same extent as the reserved goods.
- 5.4 The customer is authorized to collect the assigned claim. The customer is only entitled to assign the claim to third parties - including the sale of claims to factoring banks - with ATD's prior written consent. ATD will not refuse consent if an equivalent security is provided.
- 5.5 ATD may revoke authorization for resale and collection as soon as the customer fails to properly meet its payment obligations to ATD.
- 5.6 The customer shall be obliged to inform ATD of the respective customers; ATD shall be entitled to disclose the assignment. Upon request, the customer shall be obliged to inform ATD of the names of its customers and to surrender all necessary documents which are required for the collection of the claims by ATD itself. In addition, the customer shall be obliged to notify the customer of the assignment of the claim to ATD in writing from the occurrence of the default.
- 5.7 The customer undertakes to refrain from assigning or pledging the relevant delivery items to third parties until full payment of all claims.
- 5.8 When the reserved goods are combined with other objects, ATD shall acquire co-ownership of the new object in the ratio of the value of the reserved goods to the other objects at the time of processing. If the connection is made in such a way that the customer's item is to be regarded as the main item, it shall be deemed agreed that the customer assigns co-ownership to ATD on a pro rata basis. The customer shall hold the sole ownership or co-ownership thus created in safe custody for ATD.

- 5.9 In the event of breach of contract on the part of the customer - in particular default in payment - or expected suspension of payment, ATD shall be entitled to take back the reserved goods at the customer's expense or to demand the assignment of any surrender claims of the customer against third parties. In this case ATD shall be entitled to collect the reserved goods still in the customer's possession.
- 5.10 The exercise of rights arising from the retention of title or a demand for surrender shall not be deemed a withdrawal from the contract.

6. Warranty

ATD warrants for material defects and defects of title of the deliveries and services in accordance with the following provisions. The warranty period is twelve months.

- 6.1 ATD's warranty obligation shall only exist if the customer has complied with his inspection and complaint obligations. In the case of obvious defects, complaints must be made within 8 calendar days of delivery at the latest, in the case of concealed defects within 8 calendar days of discovery of the respective defect at the latest.
- 6.2 Complaints must be made in writing with a precise description of the defects that have occurred.
- 6.3 ATD shall be entitled to a reasonable period for supplementary performance. ATD is entitled, at its own discretion, to remedy defects by removal or by delivery of defect-free goods. ATD shall also be entitled, at no additional cost to the customer, to make such changes to the goods or services as may become necessary due to defects as long as the contractual performance is not changed more than insignificantly as a result.
- 6.4 The customer shall support ATD in the elimination of defects to a reasonable extent.
- 6.5 Replaced parts shall become the property of ATD if they are no longer subject to retention of title.
- 6.6 The costs of rectification of defects shall be borne by ATD in the event of justified complaints. This does not apply, as far as for applications, which result from the fact that the delivered goods have been moved after delivery by ATD to another place than the place of business of the customer, unless the transfer corresponds to the intended use of the goods. Sentence 1 shall also not apply to additional expenses arising from the fact that the customer has changed the goods. The warranty shall lapse if the customer makes changes or other interventions on the goods, unless he proves that the defect is not attributable to the changes or intervention. If it turns out that a warranty case did not exist, the customer shall pay for the services provided by ATD in accordance with the general price list valid at the time of performance.

- 6.7 The customer may only demand a reduction of the remuneration or withdraw from the contract after defect rectification fails in accordance with the statutory provisions. In the event of only an insignificant reduction in the value or suitability of the goods or services, withdrawal is excluded, as well as if the customer is in default of acceptance or is predominantly responsible for the defect. As long as the customer has not rescinded the contract with ATD or claim damages for non-performance, ATD shall be entitled to performance even after expiry of the deadline set by the customer.
- 6.8 Any claims for damages or reimbursement of expenses of the customer are - except in the case of intent or gross negligence and personal injury - limited to the use of such damages or expenses that were typically foreseeable.
- 6.9 Even after expiry of the warranty period, the customer shall immediately inform ATD if third parties assert infringements of property rights by the goods or services.

7. Liability

- 7.1 ATD shall be fully liable for intent and gross negligence on the part of ATD, its legal representatives or vicarious agents as well as for damages arising from injury to life, body or health resulting from a breach of duty for which ATD, its legal representatives or vicarious agents are responsible.
- 7.2 ATD shall be liable for any other culpable breach of essential contractual obligations, irrespective of the legal reason, on the merits, however, liability shall be limited in total to the order value of the contract concluded between the client and the contractor. Any other liability is excluded. Any statutory right of withdrawal of the customer remains unaffected. Any further claims of the customer, for whatever legal reason, in particular damages of any kind, including consequential damages and loss of profit, are excluded.
- 7.3 Liability for indirect damage is excluded, except in cases of intent and gross negligence.
- 7.4 In the case of tests and demonstrations carried out at the request of the customer by employees of ATD, liability for any damage to the processed goods is excluded, unless the employees act intentionally or with gross negligence or personal injury occurs.
- 7.5 The above limitations of liability shall also apply in favor of ATD employees.
- 7.6 The provisions of the Product Liability Act remain unaffected.
- 7.7 A copy of ATD's liability and content insurance can be handed over on request.

8. Confidentiality

ATD and the customer are obliged to use all documents, discussions (including samples, models and data) and knowledge arising from mutual business relations only for the jointly pursued purpose and to keep them secret from third parties. In the case of subcontracting, non-disclosure shall be passed on to the subcontractor within the framework of non-disclosure agreements. This obligation begins with the beginning of the business relationship and ends automatically 36 months after the end of the last business relationship.

9. Final clauses

- 9.1 In case of doubt, the remaining parts of these terms and conditions shall remain binding even if individual or several provisions are legally invalid.
- 9.2 Deviations from and amendments to these terms and conditions must be made in writing.
- 9.3 The law of the Federal Republic of Germany shall apply exclusively with the exception of the Vienna UNCITRAL Convention on Contracts for the International Sale of Goods of 11 April 1980.
- 9.4 The customer shall not be entitled to assign its claims arising from contracts concluded with ATD or to otherwise transfer rights and obligations arising from contracts concluded with ATD in whole or in part to third parties without the consent of ATD. This also applies to warranty claims.
- 9.5 Place of performance for all deliveries and services of ATD is 63843 Niedernberg, Germany.
- 9.6 Place of jurisdiction is 63739 Aschaffenburg. ATD reserves the right to take legal action against the customer at the customer's general place of jurisdiction.

Niedernberg, 23.04.2020