

I. Conclusion of contract

1. The following terms and conditions of purchase shall apply exclusively to our orders; the Supplier's general terms and conditions are rejected. They shall not be accepted by ATLAS, not even with the execution of a contract.
2. Orders may be revoked by ATLAS if the revocation is received by the Supplier before ATLAS has received its declaration of acceptance. If the Supplier's declaration of acceptance deviates from the order, a contract shall only be concluded if ATLAS has been expressly informed of the deviation and has then given its written consent to the Supplier.
3. Unless otherwise agreed in writing, the Incoterms 2010 (clause DDP, "delivered, duty paid, destination", see clause 5.1) in their currently valid version shall apply.
4. Advance payments and down payments by ATLAS, which are to be agreed expressly and in writing and which amount to more than 5,000.00 €, shall only be made against the provision of an unlimited, unconditional, directly enforceable guarantee in the corresponding amount, to be fulfilled on first demand, by a major German bank or savings bank, which also waives the right to deposit the amount of the guarantee.

II. Main responsibilities

1. ATLAS shall be entitled to change the time and place of delivery at any time by giving notice in writing at least 7 calendar days before the agreed delivery date. The same shall apply to changes to product specifications insofar as these can be implemented within the scope of the Supplier's normal production process without significant additional expenditure, whereby in such cases the period of notice pursuant to the preceding sentence shall be at least 2 weeks. ATLAS shall reimburse the Supplier for any proven and reasonable additional costs incurred as a result of the modification. If such changes result in delays in delivery which cannot be avoided with reasonable efforts in the Supplier's normal production and business operations, the originally agreed delivery date shall be postponed accordingly. The Supplier shall notify ATLAS of any additional costs or delays in delivery to be expected by him, based on a careful assessment, in good time before the delivery date, but at least within 3 working days (Monday to Friday, excluding public holidays) after receipt of the notification according to phrase 1.
2. The Supplier shall be obliged to hand over the goods to be delivered to ATLAS and to transfer unconditional ownership of them to ATLAS.
3. The contracting parties irrevocably agree upon the conclusion of the contract that the title to the goods to be delivered shall pass to ATLAS at the latest upon payment.
4. In cases where ATLAS pays the agreed remuneration before the handover of the goods, the handover due at the time of payment for the purpose of transfer of ownership shall be replaced as follows:
 - (1) If the Supplier is already in possession of the goods or obtains such possession at a later date, the goods shall be made available to ATLAS and shall be stored for ATLAS with the care of a prudent businessman. If the Supplier is only in possession of the necessary raw materials or obtains them later, the previously mentioned applies accordingly.
 - (2) If a third party is still in possession of the goods or the raw materials required for them, the handover between ATLAS and the Supplier shall be replaced by the fact that the Supplier hereby assigns to ATLAS its claim for return against the owner. ATLAS accepts this assignment.
5. If ATLAS has not paid the entire remuneration but only a partial amount before handing over the goods, the provisions of II.3 shall apply with the proviso that ATLAS shall then only acquire a co-ownership share in the goods or their raw materials. The size of the co-ownership share is determined by the ratio of the value of the partial payment to the agreed price of the goods.

III. Delivery time

1. The delivery time stated by ATLAS in the order shall be binding. If the order does not contain any information on delivery periods, the Supplier is obliged to specify an earliest and a latest delivery date. If he does not comply with this obligation, the goods must be delivered within fourteen (14) days of receipt of the order by the Supplier.
2. Early delivery is not permitted without the express approval of ATLAS.
3. If the Supplier is unable to comply with the delivery period applicable under III.1, the Supplier shall notify ATLAS thereof without delay, stating the next possible delivery date. The Supplier shall be obliged to inform ATLAS immediately and without being asked after becoming aware of any delivery difficulties, for whatever reason.
4. The liability of the Supplier is not limited.

IV. Contractual penalties

1. In the event that the Supplier fails to fulfil its performance obligation in due time, ATLAS may demand a contractual penalty of 0.5% for each commenced calendar week, but in no event shall the total penalty exceed 5% of the purchase price of the goods affected by the delay.
2. The contractual penalty under IV.1 shall be forfeited if the Supplier is in default. It is due for payment immediately.
3. The contractual penalty can be asserted in addition to the claim to fulfilment of the performance obligation. The assertion of further or other damages is not excluded, but the contractual penalty according to IV.1 shall be credited against this. The reservation to demand the contractual penalty despite acceptance of the delivery can also be declared within 14 days after delivery.

V. Delivery and transfer of risk

1. The place of performance shall be the destination specified by ATLAS.
2. Partial deliveries are only permitted with the consent of ATLAS.
3. The risk of accidental loss or accidental deterioration of a delivery shall not pass to ATLAS until the delivery is handed over. This shall also apply if the ownership of the goods to be handed over has already been passed to ATLAS beforehand. The procurement of indirect possession shall be irrelevant to the passing of the risk.

VI. Rights in the case of defects

1. Notwithstanding § 377 HGB (German Commercial Code), ATLAS shall be entitled to assert any defects of the products even if the products are accepted upon delivery or through use. ATLAS shall inspect the products upon delivery only with regard to the type of goods delivered (identification inspection), quantity, obvious transport damage and other obvious defects. ATLAS shall give notice of defects within a period of 5 working days from receipt of the goods or, in the case of hidden defects, from discovery by notifying the Supplier.
2. As cure, ATLAS may, at its option, demand either remedy of the defect or supply of a thing free of defects. The Supplier shall bear all costs necessary to carry out the cure.
3. The cure shall be deemed to have failed after the second unsuccessful attempt at the latest. The cure shall be deemed unreasonable for ATLAS in particular if the Supplier fails to effect performance on a date or within a period specified in the contract and in the contract ATLAS has bound the continuation of its interest in performance to the timeliness of the performance.
4. The limitation period for claims for defects is twenty-four (24) months from receipt of the delivery by ATLAS, unless otherwise agreed or mandatory statutory provisions apply.
5. In so far as the Supplier is responsible for damage to a product, the Supplier shall be obliged to indemnify ATLAS on first demand against any claims for damages asserted by third parties to the extent that the cause of such damage lies within the Supplier's sphere of control and organisation and the Supplier itself is liable in relation to third parties. In this context, the Supplier shall also be obliged to reimburse any expenses arising from or in connection with any recall action carried out by ATLAS. As far as possible and reasonable, the Supplier shall be informed of the content and scope of the recall measures to be taken.
6. The Supplier undertakes, in addition, to maintain product liability and recall insurance with an appropriate amount of cover.
7. The Supplier's liability for defects is not limited.

VII. Spare parts

1. The Supplier is obliged to keep spare parts for the products delivered to ATLAS for a period of at least 5 years after delivery.
2. If the Supplier intends to stop the production of spare parts for the products delivered to ATLAS, he will inform ATLAS in writing immediately after the decision to stop the production of spare parts has been made. This notification must be made at least 6 months before production is stopped.

VIII. Third party rights

The Supplier warrants that in connection with his delivery in countries in which the Supplier produces or has produced or to which the Supplier makes deliveries no rights of third parties are infringed. If claims are made against ATLAS in this respect by third parties, the Supplier is obliged to indemnify ATLAS from these claims on first written demand. The claim for indemnification also refers to all expenses which ATLAS necessarily incurs from or in connection with the claim by a third party. This includes reasonable costs of legal defence. Notwithstanding this claim for indemnification, ATLAS is entitled to conclude agreements with third parties, in particular a settlement, even without the consent of the Supplier.

IX. Remuneration and payment

1. Invoices must show the order number of ATLAS, the exact description and quantity of the delivered goods and the price per unit or quantity. They must be sent to the address specified in the order. Duplicate invoices must be designated as such. Incorrect or incomplete invoices will be returned.
2. Unless otherwise agreed, payments shall be made after receipt of the proper invoice and receipt of all ordered goods, provided they are free of defects. Payment periods begin at the earliest at this time.
3. In the absence of a separate agreement, payments shall be made by bank transfer thirty (30) days after receipt of invoice and goods with 3% discount or net within sixty (60) days after receipt of invoice and goods. This also applies accordingly to payments on account after receipt of invoice.
4. Discount periods begin with the receipt of the invoice by ATLAS. The timeliness of payment shall be determined by the issue of the transfer order. If payment dates fall on a Saturday, Sunday or a public holiday, the following working day shall be deemed the payment date.
5. Payments do not constitute recognition of prices, conditions or contractual conformity of the delivered goods. Until complete and proper fulfilment of the contract, payment may be withheld to a reasonable extent.

X. Commercial rights and know-how

1. Models, samples, drawings, software, documentation and other documents as well as materials, tools, production equipment and testing equipment and know-how provided to the Supplier by ATLAS remain the sole property and in the sole legal ownership of ATLAS. They are to be treated confidentially and may only be passed on to third parties with the same obligation of secrecy with the prior, explicit and written consent of ATLAS.
2. The rights, documents and objects referred to in X.1 must be returned to ATLAS immediately and without being requested to do so when the contractual performance has been rendered or when the Supplier no longer needs them for further performance of the contract. Any other actual or legal disposal and/or direct or indirect exploitation by the Supplier or third parties is not permitted.

XI. Assignment, set-off, right of retention

1. An assignment of the claim against ATLAS is only possible with our prior written consent.
2. The right of ATLAS to offset against claims of the Supplier is not limited to undisputed or legally established claims of ATLAS.
3. The Supplier has no right of retention due to non-connex claims.

XII. Conflict-free materials, Dangerous substances, Other

1. The Supplier shall comply with all requirements of Article 1502 of the Dodd-Frank Act applicable to ATLAS. In particular, the Supplier must be able to explain where it procured gold, tin, tantalum and tungsten, with evidence of the complete supply chain in accordance with the requirements of the Dodd-Frank Act. All deliveries after December 31, 2014 must be conflict-free in accordance with the Dodd-Frank Act.
2. All deliveries of the Supplier must comply with all applicable legal regulations, including German, European and U.S. regulations, on the avoidance of hazardous substances, including the ROHS EU directive in the version effective at the delivery.
3. Contractual security rights of the Supplier require in any case a written agreement.
4. Place of performance for payments is the registered office of ATLAS.

XIII. Applicable law and place of jurisdiction

1. German law applies with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG). A reference to another legal system is irrelevant.
2. Place of jurisdiction is Frankfurt am Main. ATLAS is, however, entitled to seek legal redress at any other court which is competent for the dispute in question under German law or under the law of the country in which the Supplier has its registered office.
3. Should one or more provisions of these terms and conditions be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The parties will then find a permissible replacement provision which comes as close as possible to the economic result of the invalid provision.