



1. General Provisions

- I. These General Terms shall apply to all deliveries and services which we, Atlanta Antriebssysteme E. Seidenspinner GmbH & Co. KG, provide or make to business owners (purchasers).
- II. Purchase conditions of the purchaser which conflict with, supplement the scope of, or deviate from these General Terms shall not become part of the contract unless we explicitly agree to their application in writing. This approval requirement shall also apply if we carry out a delivery to the purchaser without reservations while being aware of the purchaser's conflicting or deviating conditions.

2. Conclusion of Contract and Implementation

- I. All our offers are without engagement and non-binding.
- II. A contract does not exist until we issue a written confirmation of the order or an invoice. If we do not reply to offers, orders, requests, or other declarations of the purchaser, this shall only be deemed consent if an express written agreement to this effect has been made.
- III. Pictures, drawings, information as to weights, measures, colors and performance, and any other descriptions of the goods in the documents which form part of the offer are approximations only unless they are expressly stated to be binding. They do not constitute any agreement on or guarantee of a corresponding quality of the goods.
- IV. We retain our ownership of and/or our copyrights and other property rights in all our samples, sketches, patterns, cost estimates, dies, tools, drawings, and similar items, as well as in any information, whether tangible or intangible (including in electronic form). Such items or information may only be made available to third parties with our prior written consent and, at our request, must be returned to us without undue delay and free of charge along with any copies made; documents which have been stored electronically must be deleted.
- V. In the case of custom-made products, **deliveries which exceed or fall short of the quantity ordered by up to 10% shall be deemed to be as agreed.**
- VI. In the absence of a separate agreement, requests for delivery within the scope of orders for delivery upon request must be made within one year of the order date. Otherwise, we may deliver and issue an invoice for the goods, withdraw from the contract or, if the purchaser has acted culpably, claim damages in lieu of performance after setting a reasonable additional time period for performance to no avail. In addition, we may charge the purchaser for the quantities actually requested at the applicable prices.
- VII. Tools manufactured by us on behalf of the purchaser will remain our property even if we charge the purchaser for part of the cost of manufacturing the tools.
- VIII. If the purchaser provides us with parts for processing ("parts to be provided"), the following rules shall apply: The parts to be provided must be delivered along with a delivery note. In this delivery note, we must be informed of the number and material of these parts. We need gauge pieces for setting our machines. **If we do not receive any other information from the purchaser, we may take the required number of gauge pieces from the quantity of the parts to be provided which the purchaser has supplied to us. This will be a minimum of 1 piece and a maximum of 10% of the supplied quantity of parts to be provided.** Complaints about shortfalls which result from the purchaser's failure to supply a sufficient quantity of the parts to be provided shall be excluded. The material used must allow optimal processing. All prefabricated parts supplied must be true to size and have the required tolerances; otherwise, we may return them at the purchaser's expense. We are not liable for defects which are due to the quality and, in particular, the material of the parts supplied. If parts become unusable as a result of faults in the material or defects for which we are not responsible, we may charge the purchaser for the processing costs incurred in this connection. We reserve the right to assert further claims for damages.

3. Delivery Periods; Default

- I. As a prerequisite for adherence to delivery periods, all commercial and technical issues must have been clarified, all documents and all required permits and approvals which need to be supplied by the purchaser and any parts to be provided pursuant to Sec. 2., subsection VIII above must have been timely received by us, and the purchaser must comply with the terms of payment and any other obligations agreed upon. The delivery period shall be reasonably extended if the prerequisites stipulated in the first sentence of this subsection I are not met in due time, unless we are responsible for the delay.
- II. Delivery by us shall be subject to the timely and proper receipt of the deliveries from our own suppliers. We will inform the purchaser as soon as possible if it becomes apparent that there will be a delay.
- III. Subsequent requests of the purchaser for changes to the order will result in an interruption of the delivery period until the desired change has been agreed upon. Thereafter, a reasonable new delivery period shall commence.
- IV. As a prerequisite for the purchaser's withdrawal from the contract following late delivery by us, we must have been given a reasonable additional period of time for performance which has expired to no avail.
- V. If delivery periods cannot be adhered to because of events of force majeure, e.g., mobilization, war, civil unrest, or similar events on which we have no influence, such as industrial action, the delivery periods shall be reasonably extended.

- VI. The delivery period will be deemed met if the goods have left our works or the purchaser has been given notice that the goods are ready for dispatch by the time the delivery period expires. In the event that a work must be accepted, the date for acceptance or, alternatively, the time of notice that the work is ready for acceptance shall be decisive unless acceptance is legitimately refused.
- VII. Claims for damages for late performance and claims for damages in lieu of performance shall be excluded in all cases of late delivery, even after the expiry of a deadline set to us by the purchaser for delivery. This shall not apply in cases of willful misconduct, gross negligence, or death, bodily injury or damage to health. The purchaser may only withdraw from the contract within the scope of the statutory provisions if we are responsible for the late delivery. The preceding provisions do not involve a reversal of the burden of proof to the purchaser's detriment.
- VIII. If so requested by us, the purchaser shall be obligated to state within a reasonable time period whether it withdraws from the contract due to the late delivery or whether it insists upon delivery.
- IX. We shall have the right to make partial deliveries unless this is unreasonable for the purchaser. The additional delivery costs incurred through such partial deliveries, if any, will be borne by us unless the partial delivery was requested by the purchaser.
- X. All goods will be dispatched at the purchaser's expense and risk, even if we are late with a delivery.

4. Passing of Risk

- I. The risk shall pass to the purchaser as soon as the goods have been delivered to the person in charge of carrying out the transport or as soon as the goods have left our warehouses for shipping purposes. This shall also apply if we make partial deliveries or if we have assumed further obligations, for example, the obligation to pay the transport costs or to install the goods at the purchaser's place of business. If so requested by the purchaser, we will take out a transport insurance policy and insure the goods at the purchaser's expense against the risks specified by the purchaser.
- II. If the purchaser defaults on acceptance or violates other cooperation duties, we may demand compensation for the damage sustained including our additional costs, if any. The risks of accidental loss or destruction or accidental deterioration of the goods shall pass to the purchaser as soon as the purchaser defaults on acceptance. After a reasonable time period set for acceptance has expired to no avail, we will have the right to otherwise dispose of the goods and carry out the delivery to the purchaser within a reasonably extended time period.

5. Retention of Title

- I. We retain title to all items delivered by us until all of our claims against the purchaser which arise from the business relationship have been fully settled.
- II. We have the right (but no obligation) to insure the goods to which title is retained at the purchaser's expense against theft, breakage, fire, water, damage in transit and any other damage unless the purchaser takes out a corresponding insurance policy itself or expressly objects to such insurance.
- III. For as long as the purchaser is not in default of payment, the purchaser may machine and process the goods to which title is retained in the ordinary course of its business on behalf of us as manufacturer within the meaning of Sec. 950 German Civil Code without such machining or processing giving rise to any obligations on our part. In such case, the following rules shall apply: any processing or alteration by the purchaser of the goods to which title is retained shall always be carried out on our behalf. The purchaser's right to acquire ownership of the goods to which title is retained shall continue to exist with respect to the processed or altered items. If the goods are processed, combined, or mingled with other items which are not our property, we will acquire a co-ownership interest in the new item pro rata to the value of the goods supplied as compared to the other processed items at the time of processing. The purchaser shall store the new items on our behalf. In the event that any third party obtains direct possession of the items, the purchaser assigns to us already now its existing or future claims for surrender. In all other respects, the items resulting from processing or alteration shall be governed by the same rules as the goods to which title is retained.
- IV. The purchaser is authorized, subject to revocation, to sell the goods to which title is retained in the ordinary course of its business, provided that the purchaser receives payment from its own customer or makes its own deliveries subject to retention of title so that ownership will not pass to the purchaser's customer until after the latter has performed its obligations to pay.
- V. The purchaser is not authorized to pledge or transfer the goods to which title is retained by way of security.
- VI. The purchaser assigns to us already now, by way of security, any and all receivables (including any current account balance claims) which may arise from resale or on any other legal grounds (in particular, from insurance contracts or tort) with respect to the goods to which title is retained.
- VII. The purchaser is authorized, subject to revocation, to collect the receivables which have been assigned to us on our account in the purchaser's own name. This authorization may only be revoked if the purchaser fails to properly perform its obligations to pay.
- VIII. Should any third party seize the goods to which title is retained, the purchaser shall be obligated to point out to the third party (or, in the event of resale, to its customer) that we are the owners of the goods and notify us without undue delay.



- IX. Without prejudice to any other rights we may have, we may withdraw from the contract without first setting a deadline for performance if the purchaser is in default of payment. The purchaser must immediately grant us or our agents access to the goods to which title is retained and surrender these goods. After a timely warning to this effect, we may use the goods to which title is retained otherwise with a view to achieving the settlement of our due claims against the purchaser.
- X. If the value of all security interests to which we are entitled exceeds the value of all secured claims by more than 20%, we will be obligated to release a corresponding portion of the security interests if so requested by the purchaser.
- 6. Adjustments – Withdrawal**
- I. If unforeseeable events, as defined in Sec. 3., subsections II and V above, materially affect the economic importance or contents of the delivery or have a significant impact on our business, the contract shall be appropriately adjusted, due regard being had to the principle of loyalty and good faith.
- II. If adjusting the contract is unreasonable from an economic point of view, we shall have the right to withdraw from the contract. If we wish to make use of this right to withdraw, we will so advise the purchaser without undue delay after becoming aware of the implications of the event.
- III. The preceding subsection II shall also apply if an extension of the delivery period was initially agreed upon with the purchaser. The right to withdraw from the contract shall be excluded if the reasons for the withdrawal were already identifiable at the time of conclusion of the contract. We will inform the purchaser without undue delay of the reasons for our withdrawal.
- IV. We shall additionally have the right to withdraw from the contract and take back our goods if
- a. the purchaser violates any of its obligations, in particular, if the purchaser defaults on payment and an – indispensable – reasonable deadline set by us for payment by the purchaser has expired to no avail or
 - b. we become aware of legitimate doubts about the purchaser's credit-worthiness.
- V. In the event that we exercise a right to withdraw to which we are entitled, we will not be liable for damages.
- VI. Any consideration already paid shall be refunded without undue delay. Our obligation to surrender possession shall be limited to the payments and/ or items received.
- 7. Prices and Payments**
- I. All our prices are in EURO, ex works, and exclusive of packaging. In addition, all our prices are exclusive of value added tax, which will be billed additionally at the statutory rate applicable from time to time.
- II. If we undertake to install or assemble the goods, the purchaser shall bear all necessary incidental costs, such as travel expenses, the cost of transporting tools and personal luggage, daily allowances, etc., in addition to the agreed-upon remuneration, unless otherwise agreed.
- III. With permanent obligations, the list price, catalog price, or daily price which is applicable on the day of the agreed-upon delivery shall be charged in the absence of an agreement concerning prices. This shall not affect any discounts or premiums granted.
- IV. All payments shall be made free of transaction charges to our designated bank account.
- V. If we have legitimate doubts about the purchaser's creditworthiness, we may demand that all outstanding receivables be paid immediately in cash. This shall also apply in the event that we already accepted bills or checks.
- VI. The purchaser may only make a set-off if its counterclaims are undisputed or have been finally established by declaratory judgment.
- 8. Defects of Quality**
- I. As a prerequisite for the purchaser's rights resulting from defects, the purchaser must examine the goods supplied upon receipt and inform us of defects, if any, in writing without undue delay, but no later than within two weeks of the receipt of the goods. Hidden defects must be reported to us in writing without undue delay after they have been discovered. When notifying us of defects, the purchaser must provide a written description of such defects.
- II. We will, at our option, repair defective parts free of charge or replace them with parts that are free of defects, provided the defect is due to circumstances which occurred before the passing of risk. In all other respects, Sec. 439 (3) German Civil Code shall apply.
- III. We assume no liability especially (but not only) in the following cases: natural wear and tear, unsuitable or improper use, incorrect installation or initial operation by the purchaser or a third party, incorrect or negligent treatment, improper maintenance, use of unsuitable operating materials, deficient construction work, unsuitable building ground, and chemical, electrical or electro-chemical influences, unless we are responsible for any such case.
- IV. Upon consultation with us, the purchaser must give us the time and opportunity required to carry out repairs or make a replacement delivery. In urgent cases where the operational safety is at risk or where the purchaser must prevent disproportionate damage – of which we must immediately be notified – the purchaser shall have the right to remedy the defect itself or have it remedied by a third party and demand from us reimbursement of the necessary expenses.
- V. Claims of the purchaser concerning expenses which are required for subsequent performance, in particular, the cost of transportation, travel expenses, and the cost of material and labor, shall be excluded to the extent they rise as a result of the fact that the item delivered has subsequently been transferred to a place other than the purchaser's place of business, unless such transfer is in accordance with the agreed use. This shall apply correspondingly with respect to the extent of the purchaser's right of recourse against us in the cases stipulated in Sec. 478 (2) German Civil Code.
- VI. In the absence of a separate agreement stating otherwise, claims for defects shall be excluded if the actual quality of the goods supplied deviates only immaterially from the agreed-upon quality or if the usability of the goods is affected only immaterially, as well as in the case of software errors which cannot be reproduced.
- VII. Moreover, our liability shall be excluded if the purchaser or any third party carries out repairs improperly or if changes are made to the delivery item which have not been agreed to by us in advance.
- VIII. Payments may only be retained with respect to undisputed defects; the amount of the payments retained may not exceed twice the value of the (defective) parts.
- IX. If the purchaser reports defects and this is unjustified, we may demand to be reimbursed for any expenses incurred.
- 9. Defects of Title – Property Rights**
- I. Unless otherwise agreed, we are obligated to deliver goods which are free of third-party copyrights and industrial property rights ("property rights") merely in the country where the place of delivery is located. If a third party asserts legitimate claims against the purchaser due to a property right infringement caused by goods that were delivered by us and have been used as agreed, we will be liable if the purchaser informs us of the claims asserted by the third party without undue delay in writing, refrains from acknowledging any infringement, and allows us to take control of the entire defense and negotiations concerning a settlement by compromise.
- II. If we are liable, we will, at our option and at our expense, procure the right to use the delivery items concerned, modify them so that they no longer infringe the third-party property right, or replace them. Sec. 439 (3) German Civil Code shall apply correspondingly.
- III. If the purchaser discontinues the use of the items concerned, the purchaser shall be obligated to inform the third party that such discontinuation does not constitute an acknowledgement of any property right infringement.
- IV. Claims shall be excluded if and to the extent that the purchaser is responsible for the property right infringement or such infringement was caused by special requirements of the purchaser, by any application that could not be foreseen by us, or by the purchaser modifying the items delivered or using them in combination with products not supplied by us.
- V. In all other respects, Sec. 8 above shall apply correspondingly.
- 10. Liability**
- Any claims for damages by the Customer for whatsoever cause in law are excluded. This does not apply where obligatory liability is given, e. g. under the German product liability law, or in cases of intent, gross negligence, for personal injury or the breach of essential contractual obligations.
- 11. Lapse of Time**
- All claims of the purchaser shall become time-barred within 12 months, irrespective of their legal basis. This does not apply if defective goods have been used for a building in accordance with their customary use and have resulted in the deficiency of this building, nor in the cases stipulated in Sec. 479 (1) German Civil Code. These provisions do not affect our unlimited liability for damage or losses resulting from breach of guarantee or from death, bodily injury, or damage to health, for willful misconduct and gross negligence, as well as for product defects.
- 12. Applicable Law and Place of Jurisdiction**
- I. All legal relationships resulting from the business relationship shall be governed exclusively by the laws of the Federal Republic of Germany without regard to the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- II. The exclusive place of jurisdiction for all rights and obligations resulting from the legal relationship shall be the Local Court (Amtsgericht) of Besigheim or, at our option, the Regional Court (Landgericht) of Heilbronn. We may additionally sue the purchaser before the local or regional court of competent jurisdiction over the purchaser's principal place of business.
- III. Should single provisions of these General Terms be or become invalid, this shall not affect the remaining provisions hereof.