

## **I. Validity of the conditions**

1. We shall supply exclusively subject to the following General Conditions of Sales and Delivery. They shall apply to all our deliveries unless expressly agreed otherwise in writing.
2. The applicability of divergent or additional terms and conditions of the Purchaser or of third parties is expressly rejected unless we agree expressly to their applicability for the individual case. Divergent conditions of purchase shall not become part of the contractual content, not even through acceptance of the order or any reference to letters from the Purchaser or third parties.

## **II. Conclusion of contract**

1. Our offers are always without obligation and non-binding unless they are explicitly marked as being binding or contain a certain time period for acceptance. We shall expressly reserve the right that our products or pre-materials that we have previously specified as being in stock are subject to prior sale.
2. If we append documentation such as diagrams, drawings, weight and dimensional data to an offer, then they shall only be indicative unless we expressly advise in writing that they are binding. We shall reserve the right to make changes provided that said changes are not of a fundamental nature and do not limit the contractual purpose of the goods supplied to an extent that is unreasonable for the Purchaser. Reasonable changes shall be especially those that
  - a) relate to a change in the level of scientific and technical knowledge,
  - b) that are based on new information about properties, and
  - c) alter neither the subject matter of the Contract nor the technical design.

We shall retain the right of ownership and the copyright regarding cost estimates, drawings and other documents of a material or nonmaterial nature, even in electronic form, these documents are not to be made available to third parties. They may also not be used or copied by the Purchaser himself without our express consent.

3. Orders shall be regarded as being accepted only after written or faxed confirmation by us, receipt of delivery note by the Purchaser or execution of the delivery shall also be regarded as being a confirmation. Unless otherwise agreed upon, the information specified in our offers shall be applicable for the designated use.
4. Verbal agreements, contractual amendments or supplementary provisions require written confirmation to be legally valid. To comply with the written form, transmission by means of telecommunication shall suffice, in particular, by fax or by e-mail, provided that the copy of the signed statement is submitted.
5. In addition to conclusion of the contract, our "Technical Handbook ATE motor elements" relating to the products must be observed. The ordering party can request this from us.

## **III. Prices**

1. The prices specified in the order confirmation shall be applicable for invoicing.
2. The prices are net ex works in Germany, not including VAT.
3. Not included in the prices are additional costs such as packaging, shipping costs, insurance fees, customs charges, postage, and any bank and money transfer charges.
4. Unless otherwise agreed upon, we shall reserve the right to reasonably adjust the contractually agreed price in the event of wage and salary increases, increases in the costs of raw materials or consumables.

## **IV. Terms of payment**

1. Unless otherwise agreed upon in the contract documents (our offer and your order confirmation), payment shall be due 14 days with 2% discount or 30 days strictly net upon the date of invoice. If the Purchaser defaults on payment of a due amount from the business relationship as a whole, then above-mentioned terms for payment shall be null and void and all amounts owed from the business relationship with the Purchaser shall turn payable immediately and without any discount.
2. The Purchaser shall be in default at the latest after 30 days or the time that the net payment period from the date of invoice specified in the contract documents (our offer and your order confirmation) have elapsed, unless there are reasons that cause an earlier occurrence of default (e.g. payment reminder or a payment period determined by calendar). Our payment claim shall bear interest from the day of defaulting with an interest rate per year of 8 percentage points above the base interest rate. We shall also reserve the right to claim further compensation for default and to exercise other statutory rights that we are entitled to.
3. We shall reserve the right to accept bills of exchange and checks. Acceptance shall in either case only be on account of payment. Bills of exchange must be issued immediately upon receipt of the invoice. The Purchaser shall bear the costs of discounting and collection. We shall as-

sume no responsibility for timely presentation and protest. A cash discount shall not be granted for bill of exchange payments.

4. Payments shall be regarded as being effected once we have access to the funds.
5. In the event of overdue payments, we shall be entitled to make further deliveries dependent on the amounts owed being paid in full. We shall also be entitled to refuse performance where we must, due to circumstances that we became aware of after conclusion of the Contract, fear that performance by the Purchaser is on our part not received in full and due time, unless the Purchaser effects performance or provides satisfactory security. This shall apply in particular where our credit insurer has after conclusion of the Contract refused insuring the purchase price for payment of the delivery item for reasons of creditworthiness on the part of the Purchaser.
6. If we become aware of circumstances after conclusion of the Contract that make fulfillment of their claims appear to be endangered, in particular due to insolvency proceedings being filed, not immediately averted execution against the Purchaser, or bill of exchange or check averts against him, or changes in the legal situation of the Purchaser that cause doubt as to his creditworthiness, then we shall be entitled to effect delivery only against advance payment.

## **V. Delivery times**

1. The delivery time arises from the agreement (offer, order and order confirmation) of the Contractual Parties. The delivery date ultimately depends upon our order confirmation. Supplier's compliance therewith shall require that all commercial and technical issues between the Contractual Parties have been resolved and that the Purchaser has fulfilled all his obligations, such as providing required official certificates or permits or effecting a down payment. Should this not be the case, then the delivery time shall be delayed accordingly. This shall not apply where we are responsible for the delay.
2. Observing the delivery time shall be subject to correct and timely self-delivery (provision of parts that are necessary for execution of the order). We shall advise of any imminent delays as soon as possible.
3. The delivery date will have been observed if the delivery item has left our plant prior to its expiration or where we have advised that it is ready for dispatch. If acceptance is to occur, then the date of acceptance shall be the deciding factor – except in cases of refusal of acceptance - or in the alternative, the notification of readiness to dispatch the goods.
4. If force majeure, strikes or other circumstances beyond our control prevent the delivery date from being observed, then said delivery date shall be extended accordingly. In these cases, we shall notify the Purchaser of the start and end of such circumstances as soon as possible. If such circumstances cause the delivery date to be extended for an unreasonable period, then the Purchaser, following an additional period of time to be notified on his part, shall be entitled to rescind the Contract or – in the event that the Purchaser is interested in partial delivery - rescind the unfulfilled part of the Contract. Other statutory or contractual rights of rescission agreed upon remain unaffected.
5. We shall have the right to rescind the Contract where unforeseen circumstances within the meaning of Item 4 significantly change the economic significance or the content of our performance or have significant affect on our business operations. In this case, the Purchaser shall be entitled only to a claim for restitution; other claims beyond that, in particular for compensation of damages shall be excluded.
6. The Purchaser shall be entitled to rescind the Contract without notice where we are finally unable to provide full performance prior to the transfer of risks. The Purchaser shall also be entitled to rescind the Contract where execution of part of the delivery is impossible for an order and he has legitimate interests in refusing partial delivery. Should this not be the case, then the Purchaser shall be obliged to pay the contractual price attributable to the partial delivery. The same shall apply in the event of inability on the part of the Supplier. For the rest, Item VIII.2 shall apply. If the impossibility or the inability occurs during default of acceptance or if the Purchaser is entirely or to the largest degree responsible for these circumstances, then he shall remain obliged to perform in return.
7. We shall be entitled to provide partial performance which we can respectively invoice separately.
8. If the Purchaser – subject to the statutory cases of exception - after the due date sets a reasonable deadline of grace for our performance and the deadline is not met, then the Purchaser shall be entitled to rescission within the scope of the statutory provisions. If the default relates to a partial delivery, then the Purchaser shall under the above-mentioned conditions be entitled to rescind the entire Contract only if he has no interest in partial fulfillment.
9. The Purchaser shall upon our request advise us immediately whether he wishes to rescind the Contract or abide by it, despite delays in delivery. Further claims resulting from delay in delivery shall be governed exclusively by Item VIII of these Conditions.

10. Crediting return deliveries that occur with no fault of our own shall up to a net value of € 1,000.00 entail a processing fee of € 100.00; from a net value of € 1,000.00 a processing fee of 10 % of the net value shall be charged. If the goods returned are no longer in new condition and re-conditioning is possible, then this shall occur where the costs incurred are subject to charge.

#### **VI. Transfer of risks, acceptance**

1. The risks shall be transferred to the Purchaser at the latest when the parts supplied are dispatched; this shall apply even where partial deliveries are effected, when we bear the shipping costs or where we take charge of shipping the delivery item. To the extent that acceptance is to be effected, this shall be the decisive factor for the transfer of risks. The Purchaser may not refuse acceptance for reasons of an insignificant defect.
2. If dispatch or acceptance, respectively, is delayed or does not occur as a result of circumstances for which we are not responsible, then the risks shall be transferred to the Purchaser from the day of notification of readiness to dispatch and/or to accept the goods, respectively. Storage costs after the date of transfer of risks shall be borne by the Purchaser. Storage by the Supplier shall incur storage cost of 0.25 % per full week of the amount invoiced for the delivery item to be stored. We shall reserve the right to assert and prove additional or lower storage costs. We shall at Purchaser's expenses be obliged to contract insurance as requested by him.
3. Delivered items, even if exhibiting defects, must be accepted by the Purchaser regardless of any rights under Item VII.

#### **VII. Warranty claims / warranty**

We shall be liable for material defects and defects in title of the delivery item in accordance with the following provisions.

##### **a) Material defects**

1. All parts that exhibit defects based on circumstances that arose prior to the transfer of risks shall at our discretion be rectified or replaced without defects free of charge. We shall be informed immediately in writing about any such defects being detected. Replaced parts shall become or remain our property, respectively.
2. The Purchaser shall upon consultation with us grant the necessary time and opportunity for us to rectify the defect or replace the delivery as we see fit, otherwise we shall be exempt from the liability for the consequences arising therefrom. Only in urgent cases of danger to operational safety or to prevent excessive damage, of which we must be notified immediately, is the Purchaser entitled to rectify the defect himself or have it done by third parties and to demand reimbursement of the necessary expenses.
3. We shall - if the complaint proves to be justified - bear the direct costs for the replacement part including shipping incurred for the rectification of the defect or the replacement delivery, respectively.
4. The Purchaser - as part of the statutory provisions - has the right to rescind the Contract if we - subject to the statutory exceptions - let a reasonable deadline for the rectification or replacement delivery due to a material defect elapse unsuccessfully. Provided we have effected a partial delivery without defect, rescission of the entire Contract shall beyond that only be admissible where the Purchaser has verifiably lost interest in the partial deliveries effected. If only a minor defect is given, then the Purchaser shall only be entitled to reduce the contractual price. The right to reduce the contractual price shall beyond that be excluded. Further claims shall be governed exclusively by Item VIII of these Conditions.
5. We shall assume no responsibility for defects that have arisen for the following reasons: Unsuitable or improper use, alterations or maintenance work performed without our prior consent, incorrect installation or operation by the Purchaser or third parties, normal wear, incorrect or negligent treatment - in particular overstressing - unsuitable consumables, replacement materials and chemical, electrochemical, electronic and electrical effects - provided that we are not responsible therefor.
6. If the Purchaser or a third party makes improvements in an improper manner, then the Supplier shall assume no liability for the consequences resulting therefrom. The same shall apply to modifications to the delivery item performed without our prior consent.
7. Any other claims by the Purchaser, in particular for personal injury or damage to goods that are no contractual subject matter or for the loss of revenue, consequential costs, etc., shall be excluded unless stipulated otherwise in Item VIII.
8. Our warranty shall not cover suitability of the delivery item for the use intended by the Purchaser where this use differs from the common use, unless this has been agreed upon in writing.
9. Parts supplied are to be carefully examined immediately upon delivery to the Purchaser or a third party designated by him. They shall be deemed

approved by the Purchaser regarding obvious defects or other defects that would have been recognized following immediate and careful examination where the Supplier does not within 5 working days after delivery receive a written notice of defect. With regard to other defects, the delivery items shall be deemed approved by the Purchaser if the notice of defect is not received by the Supplier within 5 working days after the date on which the defect was detected; should the defect with normal use be evident to the Purchaser at an earlier date, then, however, this earlier date shall be relevant for commencement of the notice period.

10. Any defect claims asserted by the ordering party because of any defect of quality or title will become time-barred one year after the delivery item is delivered. This shall not apply to the warranty for functional models and prototypes according to the provisions further below.

##### **b) Defects in title**

1. If the use of the delivery item leads to the infringement of domestic industrial property rights or copyrights, then we shall always at our expense provide the Purchaser with the right to continued use or modify the delivery item in a manner that is reasonable for the Purchaser such that the infringement of property rights is no longer given. Should this not be possible under commercially reasonable conditions or within a reasonable time, then the Purchaser shall be entitled to rescind the Contract. Given the above conditions, we as well shall have a right to rescind the Contract. In addition, we shall indemnify the Purchaser against any undisputed or legally established claims by the respective property rights owners.
2. The above obligations of the Supplier shall subject to Item VIII.2 of these Conditions be conclusive for the case of property right or copyright infringement. They shall exist only where
  - a) the Purchaser informs us immediately of any claims asserted regarding property right or copyright infringement;
  - b) the Purchaser supports us to an appropriate degree in the defense of such claims or enables us to perform the above-mentioned modification measures;
  - c) all defense measures, including out-of-court settlements are at our discretion;
  - d) the defect in title is not due to instructions by the Purchaser and
  - e) the infringement was not caused by the Purchaser on his own accord modifying the delivery item or using it in a non-contractual manner.
3. The above-mentioned obligations of the Supplier shall not exist where
  - a) the Purchaser has the responsibility for the design of the product, i.e. we manufacture according to Purchaser's specifications and drawings;
  - b) or where we have in the contract documents expressly indicated the responsibility of the Purchaser regarding this issue.

##### **c) Warranty for evaluation models models and prototypes**

The Parties agree on the following restrictions for functional models and prototypes:

1. An evaluation model is used to test individual functions. It is not intended for delivery to the end customer / user and shall be used only in the development process. Any warranty on functional models shall be excluded.
2. A prototype is an operational trial or preliminary model for the intended purpose or first delivery of a new version with a new data sheet of a proposed product or component. It has all the essential features of a future series product or component, but does not necessarily have to be manufactured using the same production method as a later series component. The reliability and the performance of prototypes can be limited due to reduced experience. Correct operation must be tested during application by the Purchaser. Warranty for a period of 6 months from the date of delivery shall apply for prototypes.
3. Should goods delivered as prototypes or evaluation models be re-ordered specifying the same data sheet number, and should we deliver the re-ordered goods with the same design as the prototype or the evaluation models to the purchaser, then the re-ordered goods shall in terms of the technical design and functional characteristics of the re-ordered goods be accepted by the purchaser as being free of defects and in compliance with the contract, provided that no evidence is by the purchaser provided for any deviations from the previously supplied prototypes or evaluation models.

##### **d) Warranty for services**

We shall warrant efficient and diligent performance of their services. Any further warranty beyond that shall not exist.

#### **VIII. Liability**

1. If the delivery item can not be used by the Purchaser according to the contractual purpose due to fault on our part as a consequence of our failure to implement or correctly implement proposals or advice given prior to or after conclusion of the Contract or due to the breach of other contractual secondary obligations - in particular instructions for operation and maintenance of the delivery item - then the provisions of Items

VII and VIII.2 shall apply while further claims by the Purchaser shall be excluded.

2. We shall be liable for damages that are not caused to the delivery item itself - for whatever legal grounds - only
  - a) in the event of intent;
  - b) in the event of gross negligence on the part of the owner / bodies or management officers;
  - c) in the event of culpable injury to life, body and health;
  - d) in the event of defects as well as other circumstances that we have maliciously concealed or the absence of which we have guaranteed;
  - e) or in the event of defects of the delivery item to the extent that we are responsible under product liability law for personal injury or damage to privately used objects.
3. In the event of culpable breach of essential contractual duties, we shall also be liable for gross negligence of non-management staff and for ordinary negligence. In the latter event, liability shall be limited to the damage that is reasonably foreseeable and typical to the Contract. We shall maintain product liability insurance for this event. Further claims shall be excluded.
4. Where the Supplier provides technical information or advice and such information or advice is no part of the scope of performance that is owed by him and contractually agreed upon, this shall be free of charge and exclude all liability.
5. Limitation of liability in case of customer-furnished equipment that will remain the property of the ordering party: In addition to the limitation of liability according to section VIII 2. of these contractual terms, our liability for any damage to customer-furnished equipment that will remain the property of the ordering party (e.g. housings into which we install stators; shafts onto which we mount rotors, etc.) shall be limited in the amount to the net order value for the individual order placed with us. This additional limitation of liability for damages to the net order value shall not apply in the case of any damage caused by us through gross negligence or intent.

#### **IX. Limitation of claim**

All claims by the Purchaser - on whatever legal grounds - shall fall under the statutes of limitation after 12 months. The statutory periods shall apply for claims for damages under Item VIII.2.

#### **X. Transfer of rights**

The Purchaser may transfer his rights arising from this Contract to third parties in part or in full only with our written consent.

#### **XI. Set-off, right of retention**

Any off-setting with counterclaims shall only be permitted with written consent by ATE or where the counterclaims are undisputed or have been finally determined by court ruling.

The Purchaser can assert a right to refuse performance or of retention only where the counterclaims of the Purchaser underlying the right to refuse performance or of retention are based on the Contract or are undisputed or have been finally determined by court ruling.

#### **XII. Retention of title**

1. We shall retain the title to the goods delivered by us pending full payment of all claims from the business relationship with the Purchaser, including all secondary claims and pending the payment of bills of exchange and checks. The retention of title also covers products created by processing. In the event of our goods being processed, connected or combined with other materials, we shall acquire joint ownership in the resulting goods in proportion of the value of our goods in relation to the value of the other material. Transfer of possession shall be replaced by the Purchaser safeguarding the goods for us free of charge and with the care to be expected of a diligent businessman.
2. The Purchaser shall - if required - assign to us all claims including all secondary rights arising from the sale of goods to which we hold ownership rights in the proportion of our co-ownership in the goods sold.
3. Insofar as the Purchaser is able to fulfill his obligations towards us and ensures the extended retention of title, he shall be entitled to sell the goods being subject to our retention of title in the course of normal business operations.
4. The Purchaser shall be authorized to collect any assigned claims only in the course of normal business and only on a revocable basis. Authorization can be revoked where the Purchaser fails to properly fulfill his obligations under this Contract, in particular the payment obligation, becomes unable to pay or insolvent, or if insolvency proceedings are filed against his assets. In such cases, we shall following the fruitless expiration of a reasonable period be entitled to rescind the Contract and to assume possession of the goods subject to retention of title. The Purchaser shall be obliged to surrender them. Any proceeds of sale from the realization of the returned goods subject to title shall be offset with the Purchaser's accounts payable - minus reasonable realization costs. In the event of revocation, the Purchaser shall be obliged to specify to

us immediately the name and/or company name of the debtors of the assigned claims.

5. In the cases cited in paragraph 4, the Purchaser shall upon request of the debtor indicate the assignment; we shall likewise be entitled to disclose the extended retention of title to the Purchaser's debtor.
6. The Purchaser shall, while surrendering documents necessary for intervention, inform us immediately and in writing of any imminent or enforced access by third parties to the goods subject to retention of title or to the assigned claims. Costs for intervention and any associated court costs shall internally between us and the Purchaser be borne by the latter.
7. We shall be entitled to insure our goods supplied subject to retention of title at the Purchaser's costs against theft, fire, flood and other damage provided that the Purchaser has himself not contracted appropriate insurance.
8. The Supplier shall upon request of the Purchaser be obliged to release securities that he is entitled to insofar as the value of the security exceeds the secured claims by more than 20%. The choice of the secured objects or other securities to be released according thereto shall be at the discretion of the Supplier.

#### **XIII. Secrecy**

Both Parties shall be obliged and oblige their employees to not disclose to third parties any information from the business field of the other Party that is neither publicly accessible nor generally known, and to take all measures to prevent third parties from gaining access to this information. On the other hand, each Party may continue use of the information in their typical activities that they acquire during business transactions.

The Parties shall extend this obligation to secrecy also to their employees, staff and representatives.

#### **XIV. Final provisions**

1. Place of fulfillment for all deliveries and performance shall be D-Leutkirch.
2. If the Purchaser is a merchant within the meaning of the German Commercial Code (HGB), then the exclusive place of jurisdiction for all disputes arising from the business relationship with the Purchaser, including claims resulting from bills of exchange and checks, shall be Leutkirch. The same place of jurisdiction shall apply where the Purchaser has no general domestic place of jurisdiction, has after conclusion of the Contract relocated his domicile or habitual residence abroad, or where his domicile or habitual residence is not known at the time when the complaint is lodged. We shall also be entitled to lodge a complaint at the domicile of the Purchaser.
3. The law of the Federal Republic of Germany shall apply exclusively. Application of the UN Sales Convention (CISG) shall be excluded.
4. Should any provision of these Conditions of Sale and Supply be or become invalid, then the validity of the remaining provisions shall not be affected.