

GENERAL TERMS AND CONDITIONS of Afvalstoffen Terminal Moerdijk B.V.

Article 1 Applicability of the General Terms and Conditions

- 1 These General Terms and Conditions are used by Afvalstoffen Terminal Moerdijk B.V., hereinafter referred to as "ATM". These General Terms and Conditions apply to all quotations drawn up by ATM and to all agreements entered into by ATM with its Contractor (meaning ATM's Client). They also apply to any additional or follow-up assignments.
- 2 If the Dutch text of the General Terms and Conditions deviates from the translation thereof into English or another language, the Dutch text shall take precedence.

Article 2 Applicable law and choice of forum

- 1 All requests for quotations to ATM, ATM's quotations and all agreements between ATM and its Contractor, as well as any disputes arising from them, shall be governed by Dutch law.
- 2 Disputes between ATM and its Contractor shall be exclusively submitted to the competent court in Rotterdam.

Article 3 Authority to engage auxiliary persons; significance of time periods

- 1 In executing an assignment, ATM may involve one or more natural persons and/or legal entities who may or may not be directly or indirectly affiliated with ATM.
- 2 No time period within which ATM is required to deliver a performance is considered a strict deadline, unless otherwise agreed.

Article 4 Obligation to take out insurance

- 1 If the Agreement with the Contractor relates to the performance of work or the leasing of a storage facility from ATM, the Contractor shall take out insurance for that work or for the leased storage facility, respectively, which includes ATM's interests. ATM also has the right to require the Contractor to take out liability insurance. The Contractor shall allow ATM to inspect the relevant policies immediately on request.

Article 5 Limitation of ATM's liability

- 1 All liability for damages, direct or indirect, by whatever name, suffered by ATM's Contractor shall be limited to the amount due for ATM's performance, unless such damages are caused by intent or gross negligence on the part of a director or manager of ATM. In any event, ATM's liability shall never exceed the amount paid out by ATM's insurer in the relevant case.

Article 6 Special provision

- 1 In the event that ATM acts as a customer or purchaser, ATM's Supplementary Conditions of Purchase also apply. These Supplementary Conditions of Purchase shall be sent to the address stated in the letterhead immediately on request of the Contractor (the Supplier). They can also be downloaded from the internet site www.atmmoerdijk.nl.
- 2 In the event that ATM acts as supplier or seller, transporter and/or service provider, ATM's Supplementary Conditions of Sale shall apply in addition to these General Terms and Conditions. These Supplementary Conditions of Sale shall be sent to the Contractor (the Client) immediately on request. They can also be downloaded from the internet site www.atmmoerdijk.nl.

SUPPLEMENTARY CONDITIONS OF PURCHASE OF ATM B.V.

These ATM Supplementary Conditions of Purchase are supplementary to the General Terms and Conditions used by ATM.

Article 1 Applicability of the Supplementary Conditions of Purchase

- 1 These Supplementary Conditions of Purchase apply to all legal acts of ATM relating to the purchase of goods and services (hereinafter referred to as "the Delivery"). All other terms and conditions are expressly excluded. Deviations from and/or additions to these Supplementary Conditions of Purchase are only binding if and insofar as ATM has agreed to them in writing.

Article 2 Offer and acceptance

- 1 Every offer to ATM must be made in writing (including by electronic means) and cannot be withdrawn for a period of 30 days. Even after the expiry of this period, an offer can no longer be withdrawn after ATM has sent a written acceptance.
- 2 ATM is only bound to the Supplier after a written acceptance (order) has been issued by an authorised representative of ATM.
- 3 All orders and change orders issued by ATM shall be confirmed by the Supplier by returning a copy of such order or change order signed for approval within 14 days, unless a different term is stated in the order or change order. ATM can withdraw an order or change order as long as the Supplier has not confirmed it.

Article 3 Amendments and additions to the Agreement

- 1 Amendments and additions to the Agreement are only binding if they have been agreed in writing.

Article 4 Warranty of quality and capacity of the Delivery

- 1 The Supplier warrants ATM:
 - a. that the Delivery is complete and suitable for the purpose for which it is intended;
 - b. that the Delivery is in full conformity with the requirements as set out in the assignment, specifications, drawings, calculations and/or other documents provided by ATM;
 - c. that the Delivery meets the statutory requirements and government regulations applicable in the Netherlands as a minimum, unless otherwise stipulated in the Agreement;
 - d. that, insofar as the Delivery is carried out at a location outside the Supplier's business premises and/or sites, the laws and government regulations applicable to that location as well as the regulations declared applicable by ATM or its customer for that location will be observed;
 - e. that the Delivery is of good quality and free from design, implementation and/or material faults/defects and from viruses and that new materials and skilled personnel are used or deployed for the execution of the activities associated with the Delivery;
 - f. that if the Delivery consists of the provision of workers, the provision of workers will meet the legal requirements and the workers will meet the agreed or, if no specific agreements have been made in this respect, generally applicable requirements of professional competence and that the agreed number of workers will be continuously available during the agreed period.
- 2 If the Agreement and/or its annexes refer to technical, safety, quality and/or other regulations not included in the Agreement, the Supplier is deemed to be aware of them, unless it notifies ATM in writing of the contrary without delay. ATM shall in that case inform the Supplier of these regulations.

Article 5 Interim inspections, checks and tests

- 1 ATM is entitled at all times to perform or arrange for the performance of interim inspections and/or checks and/or tests of the Delivery or the associated goods and/or work and to carry out or arrange for progress monitoring. To this end, the Supplier shall provide, within reasonable limits, the necessary human and material assistance, grant persons or bodies designated by ATM access at all times to the location where the assignment is being carried out and make a suitable room available for the interim inspection, check or test.
- 2 If interim inspections, checks and tests are agreed, which are to be carried out on the initiative of the Supplier or ATM, the Supplier shall always inform ATM in writing of the intended time of the inspection, check or test, so that ATM can be present or represented there if ATM so wishes.
- 3 All interim inspections, checks and tests shall be carried out on the basis of the requirements, regulations and documents referred to in [Article 4](#).
- 4 All costs associated with interim inspections, checks and tests, with the exception of the costs of ATM personnel and/or other persons designated by ATM as representatives, shall be borne by the Supplier.
- 5 In the event of rejection, ATM shall immediately inform the Supplier thereof, stating the reasons. The Supplier shall then be required to rectify or replace the rejected item at its expense within a period of time set by ATM.
- 6 If the Supplier engages subcontractors or subsuppliers for the purpose of the Delivery, it shall ensure that such subcontractors or subsuppliers are bound by the provisions of this Article on behalf of ATM.
- 7 Interim inspections, checks or tests, or the absence thereof, shall not constitute acceptance.

Article 6 Final inspections, final tests and acceptance

- 1 Written approval by ATM of the Delivery is deemed acceptance thereof, without prejudice to the provisions of paragraph 4.
- 2 If the Delivery is subjected to a final inspection or test, the provisions of [Article 5](#) shall apply accordingly, with the exception of the provisions of [Article 5, paragraph 7](#).
- 3 If and insofar as the Delivery is required to possess characteristics the presence of which can only be determined following the set-up, assembly or installation of the Delivery, the final inspection or final test shall take place as soon as the Delivery or the object for which the Delivery is intended is ready.
- 4 If and insofar as it has been agreed that the Delivery will be accompanied by certificates, attestations, assembly instructions, maintenance and operating instructions, drawings or other documents, or that training and instruction will be provided, these shall form part of the Delivery and acceptance shall not be deemed to have taken place prior to the delivery or provision thereof.
- 5 All documents that form part of the Delivery must be drawn up in the Dutch language.
- 6 The Supplier grants ATM the right to use the Delivery prior to its acceptance.

Article 7 Packaging and shipment

- 1 The Supplier shall pack and/or secure the Delivery in such a way that in the event of normal transport it will reach its destination in good condition and can be safely unloaded there. Packaging must comply with the relevant legal requirements.
- 2 The Supplier shall strictly follow ATM's instructions regarding preservation, marking, shipping, insurance of the transport risk and shipping documents to be supplied.
- 3 Consignments that do not comply with the provisions of paragraphs 1 and 2 may be refused by ATM.
- 4 ATM reserves the right to return packaging to the Supplier at the Supplier's expense and risk, in return for crediting of the associated amount charged by the Supplier to ATM.

Article 8 Transfer of ownership and risk

- 1 Insofar as these Supplementary Conditions of Purchase or the Agreement do not provide otherwise, ownership of and risk in respect of the Delivery are transferred to ATM upon handover at the agreed location and following explicit acceptance. Where payments are made prior to handover, ownership shall pass to ATM in the amount of the payment at the time of payment.
- 2 In the event that ATM makes goods available to the Supplier for treatment or processing, or for mixing or assimilation with goods not owned by ATM, ATM shall remain or become the owner of the resulting goods. The Supplier is obliged to keep these goods clearly marked and shall bear the risk associated with them until the time of handover of the goods to ATM.
- 3 In the event that ATM makes goods available to the Supplier for assembly or for the purpose of testing or putting into operation goods already assembled, and in the event that ATM commissions the supervision of the assembly of these goods, the Supplier bears the risk associated with the goods from the time they are made available until ATM accepts the Delivery. If the Supplier both delivers and assembles the goods at the construction site or supervises these activities, it shall continuously bear the risk associated with the goods until ATM accepts them.

Article 9 Delivery and delivery time

- 1 Fulfilment of the Agreement at the time stipulated in the Agreement is an essential obligation for the Supplier.
- 2 If the Supplier fails to comply with the provisions of paragraph 1, ATM is authorised without further notice of default, without judicial intervention and without prejudice to ATM's further rights, to terminate the Agreement in whole or to terminate the part of the Agreement that has not been delivered on time, and to arrange for the Delivery to be carried out by a third party at the Supplier's expense.
- 3 The Supplier shall, as soon as circumstances arise or are foreseeable that make it impossible for it to fulfil the obligation referred to in paragraph 1, immediately notify ATM in writing, stating the nature of the circumstances, the measures it has taken or will take and the probable duration of the delay, failing which it shall not be able to subsequently invoke those circumstances. A reliance on force majeure shall not indemnify the Supplier if it has failed to meet this obligation.
- 4 Delivery takes place under the condition Delivered Duty Paid according to the most recent version of this Incoterm DDP published by the International Chamber of Commerce.

Article 10 Warranty

- 1 The Supplier warrants that it will remedy all defects that may occur to the Delivery, at no cost to ATM, unless the Supplier demonstrates that these defects are not the result of errors/defects in the design or execution of the Delivery or, to the extent that the Delivery consists of goods, of faulty materials. This warranty is valid for 24 months following acceptance or commissioning of the Delivery or of the object for which it is intended, the last of these events triggering the warranty period, unless a different period is stipulated in the Agreement. The Supplier furthermore undertakes to carry out this rectification as soon as possible, and in any case within the reasonable term set by ATM in the fault notification, by means of repair or replacement, at the Supplier's discretion, of the defective Delivery or of the defective parts thereof.
- 2 The Supplier is obliged to bear all costs necessarily incurred to rectify the faults for which it is liable under the provisions of paragraph 1, including but not limited to the costs of installation and removal, transport and suchlike.
- 3 In the event of failure to properly fulfil this obligation to rectify a defect and/or failure to do so within the prescribed period, as well as in urgent cases, ATM is entitled to carry out the necessary repairs at the expense and risk of the Supplier or to have them carried out by third parties, provided the Supplier is notified of this as soon as possible.
- 4 If the goods delivered cannot be used due to a fault attributable to the Supplier, the period referred to in paragraph 1 shall be extended by the repair time. For the repaired or replaced parts of the Delivery, the period referred to in paragraph 1 shall recommence from the time of commissioning after repair.

- 5 The risk associated with the goods to be replaced/repared shall be borne by the Supplier during the repair period for the defective Delivery. The Supplier must take possession of these goods as soon as possible, unless ATM requests that the goods to be replaced/repared are made available to ATM for inspection.
- 6 The provisions of the preceding paragraphs of this Article and/or of the other Articles of these Supplementary Conditions of Purchase do not release the Supplier from its other liability and obligations under the law.

Article 11 Transfer of rights and obligations

- 1 The Supplier shall not assign its rights and obligations arising from the Agreement, the General Terms and Conditions and these Supplementary Conditions of Purchase, in whole or in part, to third parties without ATM's prior written consent. Such consent shall be without prejudice to all obligations of the Supplier arising from the Agreement, the General Terms and Conditions and these Supplementary Conditions of Purchase.

Article 12 Liability and indemnification

- 1 The Supplier is liable for any damages that may occur in connection with the performance of the obligations arising from the Agreement.
- 2 The Supplier indemnifies ATM against claims from third parties due to defects in the goods to be delivered and goods delivered and in the materials or resources used in the execution of the Agreement, or due to acts or omissions by the Supplier, its personnel or others involved in the execution of the Delivery.
- 3 In the event that the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (*Wet Ketenaansprakelijkheid*) and/or Hirer's Liability Act (*Wet Inlenersaansprakelijkheid*) are applicable, the Supplier furthermore indemnifies ATM against liability towards third parties (including the tax authorities and temporary employees) due to non-compliance by the Supplier or its subcontractor with their obligations under either of the aforementioned acts.

Article 13 Termination for breach and termination on any grounds

- 1 In the event of a failure by the Supplier to meet its obligations under the Agreement and in the event of bankruptcy or suspension of payment or liquidation of the Supplier's business, ATM has the right to terminate the Agreement for breach in whole or in part without further notice of default and without judicial intervention, without being liable for any compensation and without prejudice to its further rights.
Notwithstanding the provisions of the previous paragraph, ATM is at all times entitled to terminate the order in whole or in part on any grounds. In that case, ATM shall only reimburse the Supplier for the costs incurred prior to termination, plus a reasonable amount for overhead and profit.
- 2 All claims that ATM may have or come to have against the Supplier in such cases shall be immediately due and payable in full.

Article 14 Price, contract variations and payment

- 1 Unless otherwise agreed, all prices offered to ATM are fixed and may not be increased. All prices are in euros and are exclusive of turnover tax (VAT).
- 2 Unless otherwise agreed, the prices include all costs, including but not limited to the costs of transport, clearance, insurance, packaging, storage, labour, licence fees and all taxes and other levies due in connection with the execution of the Agreement.
- 3 Contract extras and contract reductions shall only be recognised by ATM if agreed in writing.
- 4 Payment of the invoice shall take place within 60 days of receipt of the invoice and approval of the Delivery. Payment shall never be regarded as acceptance of the Delivery.
- 5 ATM is entitled to set off any monetary claims of the Supplier against any claims of ATM against the Supplier.

Article 15 Infringement of patents, licences, etc.

- 1 The Supplier declares that the Delivery does not infringe on any industrial/intellectual property rights of third parties or otherwise infringe on the rights of

third parties. The Supplier indemnifies ATM against claims from third parties in this respect, if and insofar as the infringement is not the result of a design prescribed by ATM.

Article 16 Confidentiality and intellectual property

- 1 The Supplier is obliged to observe absolute confidentiality towards third parties with regard to all ATM business matters in the broadest sense of the term of which it becomes aware as a result of the Agreement, including information on regulations, models, drawings, diagrams, designs and suchlike. The Supplier is not authorised to make the existence of the Agreement known to third parties on websites and/or in brochures, advertisements or otherwise in media or letters and suchlike without ATM's prior written consent.
- 2 All drawings, documents, designs, images, models, prototypes, software programs and all other data provided by ATM to the Supplier remain the property of ATM. ATM retains the copyright and/or any other intellectual property rights thereto.
- 3 ATM acquires all intellectual property rights arising from or as a result of the performance of the Agreement by the Supplier, including but not limited to all rights to drawings, designs, custom software programs, methods and techniques specially developed for ATM.