



### **1. Scope of Application**

- (1) Any consulting services (the "Services") performed by atech partners Ltd. (hereinafter "atech") shall exclusively be subject to these General Terms and Conditions for Services ("General Terms and Conditions"). Any terms and conditions of purchase or other provisions on behalf of the Customer shall not be applicable; this shall even apply in case no further objection referring to such provisions is made.
- (2) Our tenders shall be subject to changes. Tenders by the Customer shall only be deemed accepted if expressly declared so by us. Silence with respect to such tender shall not be deemed to be an acceptance.
- (3) Any declarations made by us with respect to the conclusion, amendment or termination of any contracts shall be made in writing.
- (4) Any documents and tenders submitted by us shall not become intellectual property of the Customer. The recipient of the tender may only make use of them in case a contract is concluded.

### **2. Subject matter of Contract**

- (1) Subject matter of the contract shall be consulting related to strategic, tactical and operational corporate management, particularly:
  - Analysis, evaluation and conceptual design of quality management systems, business processes, information technology systems;
  - Analysis, evaluation and conceptual design of strategies for corporate management, corporate communication, corporate identity and profile;
  - Analysis, evaluation and conceptual design of technology projects, projects for research and development of technologies and products as well as technology and product marketing;
  - Analysis, evaluation and conceptual design of marketing and sales strategies, technology and product information as well as marketing collaterals;
  - Collection, analysis and evaluation of market, enterprise, technology and product information.
- (2) We will execute these Services by qualified personnel in accordance with the principles of proper practice of a profession. We reserve the right to select employees for the execution of Services. We shall be entitled to use the Services of third parties (subcontractors) for the execution of the Services.

### **3. Scope of Services and Execution of Services**

- (1) The problem to be examined, the modus operandi and the sort of documents or other Services to be provided shall be laid down in written agreements between both parties to the contract.
- (2) The execution of Services by us shall be subject to consulting targets as stipulated in the contractual provisions. The risk of the Services being suitable and applicable for the purposes of the Customer shall exclusively be borne by the Customer. Any special purposes of use or any special suitability requirements with respect to the Services subject to each contract shall have to be expressly agreed upon.
- (3) Unless otherwise agreed upon, we shall not be obliged to achieve a particular economic, technical or scientific success with respect to the Services subject to each contract.
- (4) If and to the extent we execute any Services for which no recognized state of the art or established findings from research or science have been available so far, we shall exclusively owe Services that comply with recognized methods of research and investigation within the framework of such due diligence which we normally apply in own matters; such Services usually require practical testing, verification and further development which shall not form part of our scope of Services unless expressly agreed upon.
- (5) If the owed Services consist in consulting we will, within the limits of the due diligence as applied in own matters and based upon the recognized state of the art, provide the Customer with a scientifically well-founded and acceptable evaluation of the issue from our specialist point of view and, if so agreed upon, submit proposals, recommendations and solutions or other examination opportunities; in such cases, the consulting shall be limited to those fields of activity that our company comprises.
- (6) Unless otherwise agreed upon, any items that are produced within the framework of the Services subject to our contract (such as, without being limited to: prototypes, models etc.) shall be items deemed for research, test or verification purposes which are not in a state of readiness for start of production. The Customer shall have to take this into account when applying and handling them.



- (7) Any amendments, supplementations or extensions of the problem to be examined, the modus operandi and the sort of documents or other Services to be provided shall require a separate agreement in writing.

#### **4. Terms and Deadlines of Performance**

- (1) Any terms or deadlines of Performance shall generally serve as guidelines unless they have been expressly agreed upon as binding in each case.
- (2) Any delays or defects with respect to participation activities owed by the Customer or any other impediments originating from the sphere of the Customer as well as changes within the problems to be examined or any additional Services will prolong the term of performance and require an adequate time surcharge, notwithstanding any further claims on behalf of atech; the same shall apply to the deadlines of performance.
- (3) As far as the execution of Services depends upon previous Services or supplies by third parties, the terms and deadlines of performance shall be subject to such deliveries arriving on time.
- (4) We will notify the Customer immediately of any delays or impediments, indicating the reasons for and the expected time of such delay.
- (5) In case of non-compliance with deadlines of performance, the Customer shall only be entitled to the rights pursuant to §§ 281, 323 BGB [German Civil Code] if we are in arrears and if he has fixed an appropriate Service deadline, which - insofar as it differs from §§ 281, 323 BGB - must be connected with a statement from his side that he will refuse acceptance of the Services after expiry of the deadline; following the expiry of the deadline, any claim to performance shall be excluded. Any claims of the Customer to damages or compensation for expenses shall be subject to section 14.

#### **5. Duty of Participation of the Customer**

- (1) The Customer shall undertake to support and promote our Services to the agreed extent or as otherwise required or necessary. This particularly includes but is not limited to the disclosure of any required Information, data and outline conditions as well as the relevant and punctual response to or decision on any arising questions on the further execution of Services.
- (2) Any contact persons or offices nominated by the Customer shall be deemed authorized to make any declarations or decisions necessary for the execution of Services on behalf of the Customer.

#### **6. Fiduciary Duties**

- (1) The contracting parties shall commit themselves to mutual loyalty. They must particularly omit to take on or otherwise employ within twelve months after having completed the cooperation personnel or former personnel that have worked in or in connection with the execution of the contract.
- (2) The contracting parties shall undertake to treat the contract confidential and to keep secret any information and knowledge gained in relation with it for such period of time whereas these are not in the public domain or equivalent to the current state of the art. The parties shall also impose this duty upon any third parties having access to the exchanged Information.

#### **7. Copyrights, Patent Rights and Other Intellectual Property Rights**

- (1) The Customer shall, to the extent of due diligence usual in his industry, be obliged to ensure that the Services ordered by him may be executed without infringing copyrights, patent rights or other property rights (hereinafter the "Property Rights") of any third persons. If any conflicting Property Rights are or become known to us, we will immediately notify the Customer of the existence of such Property Rights and request the Customer's decision on their application.
- (2) If any copyrights, patent rights or other property rights arise from or in connection with the work results by atech, such shall be the exclusive rights of atech.
- (3) Each contracting party shall file for property rights any inventions arising with it on its own behalf and at its own expense. The contracting parties shall bear the inventor's awards for their inventors on their own. Any joint inventions within the contractual Services shall be filed together according to the shares of both parties in the invention, the arising expenses being shared.



- (4) Unless otherwise agreed upon between the contracting parties, the Customer shall receive an exclusive exploitation right towards the overall result of the development, which entitles him to process, to manufacture and to distribute corresponding products. If the development result includes any Property Rights of atech that already exist or that arise during the development works, the Customer shall receive a simple, non-exclusive license against payment that is limited to the exploitation of such rights in the development result as a whole. The Customer shall only be entitled to the aforesaid rights after full payment of our respective Services.

## 8. Defects

- (1) In case of defects as to quality of the Services executed under the contract we shall be obliged to subsequent performance [Nacherfüllung] either by correction of the defects or, at our own discretion, by a renewed performance of Services. If the subsequent performance is not successfully completed within an adequate period of time, the Customer shall be entitled to fix a reasonable deadline for subsequent performance and, if performance has not been completed before the expiry of such, to reduce the remuneration or to terminate the contract; furthermore, the Customer shall be entitled to damages or compensation for expenses, irrespective of the legal grounds, only in accordance with section 14. Any further claims on behalf of the Customer shall be excluded.
- (2) Subject to section 8 paragraph 4, the statutory period of limitation for defects of a work performance the success of which consists in the production, maintenance or modification of an item or in the execution of planning or monitoring Services shall be one year from handing-over or completion. The same shall apply to deliveries of manufactured items.
- (3) Subject to section 8 paragraph 4, the statutory period of limitation for defects of other Services shall be one year from handing-over or completion.
- (4) As far as Services pertain to buildings the statutory period of limitation for defects shall be three years from handing-over or completion of the Services.
- (5) In case of defects of title, the aforesaid provisions shall apply accordingly subject to the proviso that a period of at least eight weeks shall be granted to us for the elimination of such defect of title.

## 9. Delay in Acceptance

- (1) If the Customer is in delay with the acceptance of Services or if the Customer omits or delays any of his duties of participation in accordance with section 5 or otherwise, we shall be entitled to claim for the agreed remuneration for the Services that have not been executed as a consequence without being obliged to perform these Services subsequently.
- (2) Our claims for compensation of any arisen additional expenses shall not be affected.

## 10. Remuneration, Additional Charges, Maturities

- (1) The remuneration for our Services shall be subject to the contractual provisions.
- (2) Unless otherwise agreed upon, our effective hourly rates, half day and full day rates which we will communicate upon request, shall apply to any Services that are not covered by the agreed remuneration (e.g. additional or modified Services). The smallest unit of charge shall be any started half day (four hours).
- (3) Any arising additional charges such as travelling costs and expenses, expert fees, charges and remunerations, license fees, expenses for plans, blueprints and drafts shall be reimbursed to us upon presentation of evidence, unless such have expressly been agreed to be included in the contractual remuneration.
- (4) We will account for the performed Services and the reimbursable additional charges on such dates as have been agreed upon or otherwise upon Performance of such Service; we shall be entitled to request adequate part payments. Services that are based on hourly rates, half day or full day rates will be charged by us through time sheets or performance records under indication of the type of the performed Service, the employee and the time involved. Such time sheets or performance records shall be deemed accepted if the Customer does not raise in writing any objection within two weeks of presentation of the same.
- (5) The term of payment shall be fourteen days from invoice reception. Any invoices shall be settled immediately and without deductions. Payments shall be made without deduction of any discounts in a way



that we will be able to dispose of the amounts on the date of maturity. All banking charges are for account of the Customer. The Customer shall only be entitled to set off claims that are undisputed or have become res iudicata; the Customer shall only be entitled to retentions if these arise from the same contractual relationship.

- (6) Default interests to the amount of eight percentage points above the applicable base interest rate shall be charged in case of default of payment; any further claims from defaults shall remain unaffected.
- (7) Notwithstanding our legal rights, we shall at any time be entitled to securities that are reasonable with respect to their kind and extent, even if the claims are conditional or have a fixed maturity date.

#### 11. Retention of title

- (1) Any items, drafts, plans, expert opinions or other documents which have been produced and/or delivered shall remain our property (all of them hereinafter "Goods subject to retention of title") until all claims are settled in full, including in particular any balancing amounts claimed that are due to us within the framework of the business relationship. This shall also apply to future and conditional claims, such as, without being limited to, claims from acceptor's bills.
- (2) Any machining or processing of the Goods subject to retention of title shall be carried out for us as manufacturer within the meaning of § 950 BGB [German Civil Code] without placing us under any obligation. The machined and processed goods shall be deemed as Goods subject to retention of title within the meaning of paragraph 1.
- (3) If the Customer processes, combines or mixes the Goods subject to retention of title with any other goods, we shall be entitled to joint ownership of the new product, in proportion to the ratio of the invoiced value of the Goods subject to retention of title to that of the other goods used. If our ownership expires through any such processing, combining or mixing, the Customer shall hereby transfer to us any proprietary rights or expectant rights he may have in the new entity or article, to the amount of the invoiced value of the Goods subject to retention of title - or in the case of processing, according to the ratio of the invoiced value of the Goods subject to retention of title to that of the other goods used - and shall hold the new entity or article in safe custody for us free of charge. Our rights of joint ownership shall be deemed to be Goods subject to retention of title within the meaning of paragraph 1.
- (4) The Customer may resell the Goods subject to retention of title only in the normal course of business on his normal business terms, and as long as he is not in default of payment, provided that he reserves the right of ownership towards his customer, and that any claims arising from the resale are assigned to us as stipulated in paragraphs 5 and 6. He shall not be entitled to dispose of Goods subject to retention of title in any other way. The use of the Goods subject to retention of title for the fulfillment of contracts for work and Services and contracts for work and materials shall also be deemed to be resale.
- (5) Any Claims by the Customer arising from the resale of Goods subject to retention of title shall hereby be transferred to us. They shall serve as security to the same extent as the Goods subject to retention of title within the meaning of paragraph 1.
- (6) If the Customer resells the Goods subject to retention of title together with other merchandise, then any claims arising from the resale shall hereby be assigned to us in proportion to the ratio of the invoiced value of the Goods subject to retention of title to that of the other merchandise. In case of any resale of goods in which we have joint ownership as defined in paragraph 3, a pari of the claim corresponding to our share of the joint ownership shall be assigned to us.
- (7) The Customer shall be entitled to collect any claims arising from resale unless we revoke the authorization for collection in accordance with the provisions set forth in these General Terms and Conditions. At our request, he shall be obliged to notify his customers immediately of the assignment to us - unless we do so ourselves - and to submit to us the information and documentation required for collection. The Customer shall in no case be authorized to assign the claims to third parties; this shall also apply to all types of factoring business which are also not permitted to the customer by reason of our authorization for collection.
- (8) If the Customer is in delay of payment and if this indicates that the enforceability of a part of our claim which is not negligible may be endangered, we shall be entitled to prohibit further processing of the Goods subject to retention of title, to repossess the Goods subject to retention of title and, as the case may be, to enter the Customer's premises. The repossession shall not serve as a revocation of the contract.
- (9) The Customer shall immediately notify us of any seizure or other encumbrance arising from third parties.



- (10) If the value of existing securities exceeds the secured claims by more than 10 % in total, we shall be obliged pro tanto, at the Customer's request, to release securities at our discretion.

## 12. Term and Termination of Contract

- (1) The contract shall terminate upon completion of the agreed Services or upon expiry of the agreed term. However, it may also be terminated earlier in writing at the end of each month upon eight weeks prior notice, if required by business reasons on behalf of the Customer. In such case, we shall be entitled to the remuneration as stipulated within the contract, but saved expenditures will be deducted.
- (2) In case of an obvious deterioration of assets on the side of the Customer which gives concrete evidence of danger with respect to our claim for remuneration we shall be entitled to revoke (terminate) the contract without prior notice, any claims for damages of the Customer being excluded, unless the Customer provides sufficient security.

## 13. Force Majeure

- (1) Any events of force majeure that make the Services become significantly more difficult or impossible for us or for our representatives without any fault of our own shall entitle us to postpone the performance of our obligations by the duration of such impediment and by a reasonable starting time. Events of force majeure shall also include strikes, lockouts or similar circumstances that directly or indirectly affect us or our representatives.
- (2) If an event of force majeure lasts for more than eight weeks each party to the contract shall be entitled to demand an adaptation of the contract or to terminate the contract whereas any further claims by the other contracting party shall be excluded.

## 14. Liability

- (1) We shall only be liable for damages and/or compensation for expenses - indifferent of the legal grounds and also for extra-contractual Claims - in case of intent or gross negligence by our legal representatives or vicarious agents. This shall not apply to negligent breaches of substantial contractual obligations; in such cases -except under intent or gross negligence by our legal representatives or vicarious agents - we shall only be liable for the contract-related, foreseeable damage, whereas any liability for production losses and lost profits shall be excluded.
- (2) In cases of delay, the liability of atech for any damage from delay shall be limited to ten per cent of the total contract value. Furthermore, any liability of atech for any indirect consequential damage or net financial losses, particularly for production losses and lost profits, shall be excluded.
- (3) The total liability of atech for any legal grounds shall be limited to the total contract value, unless any higher insurance coverage or any higher claims against third parties which do not belong to atech exist.
- (4) Any exclusions or limitations of liability included in these General Terms and Conditions shall not apply to cases of injury of life, body or health and to claims in accordance with the Produkthaftungsgesetz [German Product Liability Act] with respect to personal injury or damage on objects for personal use.

## 15. Final provisions

- (1) Any legal or other relationship between the parties to the contract shall exclusively be subject to and governed by the laws of the Federal Republic of Germany, such as they apply to national parties.
- (2) Should any of the provisions of these General Terms and Conditions be ineffective, this shall not affect the effectiveness of the remaining provisions. In such case, the parties shall undertake to replace such ineffective provision with another provision that comes as close to the economically intended target as possible.
- (3) The place of performance and the place of jurisdiction for both contracting parties shall be Wiesbaden/Germany. We shall also be entitled to take legal proceedings against the Customer at his general place of jurisdiction.