

GENERAL TERMS AND CONDITIONS

OF: ATB MOTORS B.V.

Article 1 Definitions

ATB Motors : ATB Motors B.V., the user of the General Terms and Conditions,
Seller, Service Provider, Contractor;
Buyer : ATB Motors's counterparty, the Buyer and the Principal;
Agreement : the agreement between ATB Motors and the Buyer.

Article 2 General

- 2.1 These General Terms and Conditions will apply to every offer and Agreement between ATB Motors and the Buyer, to the extent that the parties have not expressly deviated from these General Terms and Conditions in writing.
- 2.2 The current General Terms and Conditions will also apply to all agreements with ATB Motors for the performance of which ATB Motors uses the services of third parties.
- 2.3 Any applicability of the Buyer's general conditions will be expressly excluded, unless the parties have agreed otherwise in writing.
- 2.4 If ATB Motors concludes agreements with the Buyer more than once, the present General Terms and Conditions will apply to all subsequent agreements, irrespective of whether same have been explicitly declared applicable.
- 2.5 In the event that one or more provisions of these General Terms and Conditions are fully or partially null and void or are nullified, the remaining provisions of these General Terms and Conditions will continue to apply (fully or partially, as the case may be).
- 2.6 If any of the provisions of the Agreement prove to be invalid, this will not affect the validity of the other provisions of the Agreement. This provision will not apply if one of the parties cannot be held to the terms of the Agreement.

Article 3 Offers/Orders/Prices

- 3.1 All of ATB Motors's offers, in whatever form, will be free of obligation, unless a term for acceptance is stated in the offer.
- 3.2 If a natural person concludes an Agreement on behalf or at the expense of another natural person, his/her signature on the form/order will also serve as certification that he/she is duly authorised to do so. This person, in addition to the other natural person, will be jointly and severally liable for all obligations ensuing from the Agreement.
- 3.3 Agreements to which ATB Motors is a party will not be deemed to have been concluded until ATB Motors has accepted an order placed by the Buyer, either in writing or electronically, or until ATB Motors has actually delivered the goods sold to the Buyer.

- 3.4 In the case of oral Agreements, the invoice will be considered to contain a correct and complete representation of the Agreement, unless a complaint is lodged within 30 days of the invoice date.
- 3.5 The prices stated in the offers/catalogues/price lists will be stated on the basis of delivery ex ATB Motors's manufacturing plant, in euro, and exclusive of Dutch VAT, government levies, shipping costs, freight charges, export levies, insurance costs, loading costs, packaging costs and handling expenses, unless the parties have explicitly agreed on provisions to the contrary.
- 3.6 If ATB Motors has performed the installation or assembly work and no agreement has been made to the contrary, then all auxiliary costs in addition to the agreed fee – such as travel expenses, the costs of transporting tools and personal luggage, as well as any surcharges – will be borne by the Buyer.
- 3.7 The list prices will remain unchanged up to a certain German electrolytic copper quotation for conductors (“DEL quotation”). The valid threshold value of the DEL quotation and the surcharge percentage that will be calculated over and above the list prices if this threshold value is exceeded can be found under “General” on our current price list.
- 3.8 ATB Motors will be entitled to adjust its prices each year, or at least to index same for inflation.
- 3.9 Discounts may only be agreed in writing.
- 3.10 Amounts owed to ATB Motors may only be set off against claims on the part of the Buyer if those claims are undisputed or have been established at law.
- 3.11 ATB Motors may refuse an order or part of an order or attach conditions to an order without stating its reasons for doing so.

Article 4 Delivery

- 4.1 Delivery will be made by ATB Motors, unless the parties agree otherwise.
- 4.2 In the event that ATB Motors is to deliver the goods, it will always do so at the delivery address most recently communicated to ATB Motors by the Buyer.
- 4.3 ATB Motors will be entitled to charge the Buyer an advance. After payment of the advance has been effected, delivery will be made to the Buyer, unless the parties have agreed otherwise.
- 4.4 The Buyer will be obliged to take delivery of the goods when ATB Motors delivers same to it or has same delivered to it by third parties, or at the time at which the goods are made available to it pursuant to the Agreement.

- 4.5 If the Buyer requests that the shipment or delivery of the goods be delayed for more than one month after it has been notified that the goods are ready for shipment, the Buyer may be charged a storage fee of 0.5% of the price of the goods to be delivered for each month that begins during the delay, although the maximum amount of said storage fee will not exceed 5% of the price. The parties will be free to demonstrate that higher or lower storage costs were incurred.
- 4.6 In the event that the Buyer refuses to take delivery of the goods or has neglected to provide information or instructions that are necessary for the delivery, ATB Motors will be entitled to store the goods at the Buyer's expense and risk. If the Buyer does not take delivery of the goods within two months, the Buyer will continue to owe ATB Motors the sales price and ATB Motors will be entitled to sell the goods to another party. If it is unable to do so, ATB Motors will be entitled to destroy the goods. The loss incurred by ATB Motors due to such resale or destruction of the goods will be borne by the Buyer.
- 4.7 The Buyer will be invoiced, based on time spent, for any additional costs incurred as a result of sudden changes in the delivery schedule that must be attributed to the Buyer and that impact the 21 (in words: twenty-one) business days of the manufacturing schedule that have already been planned.
- 4.8 In the event that delivery is effected C.O.D. (Cash on Delivery), ATB Motors will be entitled to invoice the Buyer for the related charges.
- 4.9 In the event that ATB Motors has stated a delivery term, same must be deemed to be an estimate. A stated delivery term may therefore never be considered a firm deadline. If a term is exceeded, the Buyer must give ATB Motors written notice of default and grant it a reasonable period of time to perform its obligations.
- 4.10 If ATB Motors defaults in its performance, the Buyer may – to the extent it can make a prima facie case that it has suffered a loss as a result of that default – charge a fee of 0.5% per week for each full week that such default lasts, with said fee not to exceed a maximum of 5% of the price of that portion of the deliveries that could not be put to their intended use as a result of the default.
- 4.11 Both the Buyer's claims for losses resulting from a delay in delivery, as well as claims for losses instead of performance that exceed the threshold set out in paragraph 4.10, above, are explicitly excluded in cases of late delivery, even after the delivery term set by ATB Motors has expired. This will not apply to cases involving intentional acts, deliberate recklessness or harm to an individual's life, body or health where liability is mandatory. The Buyer can only cancel the Agreement, in accordance with statutory provisions, if the delay in delivery can be attributed to ATB Motors. The foregoing provisions will not lead to a shift in the burden of proof that would disadvantage the Buyer;
- 4.12 If ATB Motors requires information from the Buyer within the context of the Agreement's performance, the delivery period will commence after the Buyer has made such information available to ATB Motors.
- 4.13 ATB Motors will be entitled to supply the goods in the form of partial deliveries. ATB Motors will be entitled to invoice partial deliveries separately.

- 4.14 To the extent delivery is impossible, the Buyer will be entitled to claim damages unless the impossibility cannot be attributed to ATB Motors. The Buyer's right to damages is limited to 10% of the value of the part of the delivery that cannot be put to its intended use due to that impossibility. This limitation does not apply to cases involving intentional acts, deliberate recklessness or harm to an individual's life, body or health where liability is mandatory; none of this will result in a shift of the burden of proof to the Buyer's disadvantage. The Buyer's right to dissolve the Agreement will remain unaffected.

Article 5 Installation and Assembly

- 5.1 To the extent not otherwise agreed in writing, the following provisions will apply to installation and assembly:
- 5.2 The Buyer must perform the following work and make the following available, at its own expense:
- a) all of the auxiliary excavation, construction and other work that is not part of the industry to which ATB Motors belongs, including the necessary specialists, assistants, construction materials and tools;
 - b) the required consumables required for assembly of the goods and putting them into operation, such as scaffolding, forklifts, and other equipment, fuels and lubricants;
 - c) utilities and water at the operation site, including connections, heat and lights;
 - d) at the assembly site for storing machine parts, equipment, materials, tools, etc., sufficient suitable space that is dry and that can be closed off, as well as work areas and other accommodation suitable for the assemblers, including sanitary facilities that are suitable to the situation. The Buyer must also take the same measures at the worksite to protect the property of ATB Motors and the assemblers that the Buyer would take to protect its own property;
 - e) protective clothing and safety measures as required by unusual circumstances at the assembly site;
- 5.3 Before the assembly work commences the Buyer must provide the necessary information concerning the location of electricity conduits, water pipes and similar utility structures that are not readily visible, as well as the required static data, on its own initiative.
- 5.4 Before the installation or assembly work commences, the facilities and tools for that work must be available at the installation or assembly site and all preparations for the commencement of the work must have been completed such that the installation or assembly may commence in accordance with the terms of the Agreement and may continue uninterrupted. The supply routes and installation or assembly site must be level and free of obstacles.
- 5.5 If there is a delay in installing or assembling the goods or putting them into use and that delay is not attributable to ATB Motors, the Buyer must pay the costs for the waiting time and any additional reasonable amount in travel expenses incurred by ATB Motors or the assemblers.
- 5.6 The Buyer is obliged to inform ATB Motors on a weekly basis regarding the length of time required for the assemblers' work and to notify ATB Motors immediately of the completion of the installation, assembly or putting into use of the goods.
- 5.7 If, after completion, ATB Motors so demands, the Buyer will be obliged to accept legal delivery within two weeks. If this does not happen, legal delivery will be considered to have

been completed. Legal delivery will only be considered to have taken place if the goods delivered have been put into use, possibly after an agreed test phase has been completed.

Article 6 Models, Illustrations

- 6.1 The models, illustrations, figures, measurements, weights or descriptions included in offers/advertisements/price lists must be considered as merely indicative.
- 6.2 If the Buyer has been shown a sample or an illustration, the parties will presume that such has been shown as an indication only, unless it has been explicitly agreed that the good to be delivered will be completely identical.
- 6.3 ATB Motors will retain the unrestricted title and copyrights relating to price lists, drawings and other documents (referred to hereinafter as “the Documents”). These Documents may only be provided to third parties after obtaining ATB Motors’s prior permission to do so, and they must be immediately returned to ATB Motors if ATB Motors is not awarded the contract. The first and second sentences of this paragraph are applicable *mutatis mutandis* to the Buyer’s documents, although the latter may be provided to the third parties to which ATB Motors made, or may make, the transfer of the goods.

Article 7 Inspection and Complaints

- 7.1 The Buyer will be obliged to inspect the goods delivered, or have others do so, at the time of delivery. In doing so, the Buyer should inspect whether the quality and quantity of the goods delivered are in accordance with the agreements made. Any visible defects and deviations must be stated on the consignment note/packing list and reported by telephone within 48 hours, in default of which the goods delivered will be presumed to be sound.
- 7.2 Any shortfalls must be reported to ATB Motors in writing within eight days of delivery.
- 7.3 Claims in respect of defects that are not immediately obvious will lapse within 12 months. This provision does not apply in cases in which the law prescribes longer terms, or in cases involving: harm to an individual’s life, body or health; an intentional or deliberately reckless violation of ATB Motors’s obligations; or in the case of the intentional concealment of a defect.
- 7.4 Any complaints regarding the invoice must be submitted in writing within 30 days of the invoice date.
- 7.5 After the end of the term during which a complaint may be lodged, the Buyer will be deemed to have approved the goods delivered or the invoice, as appropriate.
- 7.6 If a timely complaint is submitted, the Buyer will remain obliged to take delivery of and pay for the goods purchased. In the event that the Buyer wishes to return defective items, this may only be effected following written permission from ATB Motors. Return shipments must be effected carriage paid, undamaged and in the original packaging using a return form.
- 7.7 Complaints will not be accepted relating to: minor deviations from the agreed characteristics of the goods or minor limitations in the usability of the goods; normal wear and tear or damage as a result of erroneous or negligent treatment of the goods after the risk has been transferred; excessive use, unsuitable equipment, defective construction work or unsuitable building site; acts on the part of third parties not provided for in the Agreement. Complaints

will also not be accepted with regard to non-reproducible software defects. If the Buyer or third parties make changes or repairs in an injudicious or careless manner, no complaints will be accepted with regard to such work or the consequences thereof.

- 7.8 Complaints will be passed on to the manufacturer, as the manufacturer is the party that has warranted the soundness of the good sold. The manufacturer will investigate the complaint and determine whether it has been substantiated.
- 7.9 In the event that a complaint is well-founded, ATB Motors will replace the delivered good, unless this has become demonstrably pointless to the Buyer by that time. If this is the case, the Buyer should communicate this by means of a written notification. ATB Motors, however, will in all events only be liable within the limits of the provisions set out in the Article "Liability".

Article 8 Payment

- 8.1 Payment must be made in euro within the agreed term, or in the absence of an agreed term, within 30 days of the invoice date in the manner designated by ATB Motors, unless the parties have agreed otherwise. Objections to the amounts stated in invoices will not relieve the Buyer of its payment obligation.
- 8.2 If the Buyer fails to effect payment within the agreed term, the Buyer will be in default by operation of law. In that event, the Buyer will owe 1.5 % in interest per month or part of a month, unless the statutory interest rate or the statutory commercial interest rate is higher, in which case the highest interest rate will apply. The interest on the payable amount will be calculated from the time that the Buyer is in default until the time of full payment.
- 8.3 In the event that the Buyer is wound up, is declared bankrupt or files for bankruptcy, is admitted to statutory composition pursuant to the Dutch Natural Persons Composition Act [*Wet schuldsanering natuurlijke personen*], is placed under guardianship, dies, or the Buyer's enterprise is transferred or discontinued, attachment is levied against the Buyer or the Buyer is granted a suspension of payments, provisional or otherwise, ATB Motors's claims against the Buyer will become exigible forthwith.
- 8.4 Payment must be made to ATB Motors, unless ATB Motors has transferred or pledged its claim against the Buyer to a third party. If this is the case, ATB Motors will inform the Buyer that it will receive discharge of its payment obligation if it effects payment to that third party.
- 8.5 Payments must be made to ATB Motors free of banking fees.
- 8.6 Payments will first be used to cover the costs, then to cover any interest due and finally to cover the principal sum and the accrued interest.

Article 9 Collection Costs

- 9.1 If the Buyer is in breach of contract or in default of performing its obligations or performing same in time, all reasonable costs incurred in obtaining extrajudicial payment will be borne by the Buyer. The collection costs will be calculated in accordance with the collection rate recommended by the Dutch Bar Association [*Nederlandse Orde van Advocaten*] in collection cases, subject to a EUR 350 minimum.
- 9.2 In the event that ATB Motors has incurred higher costs which were reasonably necessary, such costs will also qualify for reimbursement. Any reasonable judicial and enforcement costs will also be charged to the Buyer.

Article 10 Retention of Title

- 10.1 All items delivered by ATB Motors will remain the property of ATB Motors until the Buyer has fulfilled all its obligations arising from the agreements concluded with ATB Motors.
- 10.2 During the title-retention period, the Buyer is not permitted to pledge the goods or to transfer them as security and can only resell them to resellers in the normal course of the Buyer's business and exclusively under the condition that the reseller receives a payment from its clients or makes the sale subject to the condition that title to the goods will only pass to the client after its payment obligations have been met.
- 10.3 a) If the Buyer resells the goods subject to the retention of title, the Buyer now assigns to ATB Motors any future claims arising from the resale to its clients and all the associated rights – including any balance due – as security, without any special statements being required in this respect. If the goods subject to the retention of title are resold with other goods without separate prices being agreed for the relative portions of the sale, the Buyer will, with precedence over the residual claim, grant ATB Motors that portion of the price that corresponds to the price ATB Motors charged for the goods subject to the retention of title.
b) If a prima facie case has been made justifying the provision of such information, the Buyer must provide ATB Motors with the information necessary to exercise its rights against the client and provide it with the required documentation.
c) The Buyer is authorised to collect the assigned claims from the resale until this authorisation is revoked. If there is a significant reason for doing so, particularly in cases of default on payment, cessation of payment, bankruptcy, grievance, or if comparable circumstances arise that make it plausible to assume that the Buyer will be unable to meet its payment obligations, ATB Motors will be authorised to revoke the Buyer's collection authority. Furthermore, after notification of the disclosure of the assignment as security or the recovery of the assigned claims, and with due observance of a reasonable term, ATB Motors will be permitted to publish the assignment as security to recover the assigned claims, as well as to claim disclosure of the Buyer's assignment of security to the client.
- 10.4 a) The Buyer is permitted to treat or alter the goods that are subject to the retention of title or to combine them with other items. The treatment, alteration or combination must be done on ATB Motors's behalf. The Buyer will, on ATB Motors's behalf, handle the new good with all the due care expected of a sound commercial entity. The treated, altered or combined good will be considered as being subject to the retention of title.
b) If the goods are treated, altered or combined with goods not originating from ATB Motors, then ATB Motors will be the co-owner of the new good, with the share in ownership proportional to the ratio between the value of the treated, altered or combined goods subject

to the retention of title and the value of the other treated goods on the date of treatment, alteration or combination. To the extent the Buyer acquires exclusive title to the new good, ATB Motors and the Buyer agree that the Buyer will grant ATB Motors co-ownership of the new good created by the treatment, alteration or combination in proportion to the ratio between the value of the treated, altered or combined goods subject to the retention of title and the value of the of the other treated goods on the treatment, alteration or combination.

c) If the new good is sold, the Buyer will, upon such sale, assign to ATB Motors the right associated with the resale to the client, including all auxiliary rights, by way of security, without any special additional statement being required. The assignment, however, will only apply to the amount that corresponds to the value that ATB Motors charged in respect of the treated, altered and combined goods that are subject to the retention of title. The portion of the claim assigned to ATB Motors must be discharged with priority. Paragraph 3.c is applicable *mutatis mutandis* to both the authority to cancel and the revocation of that authority.

d) If the Buyer combines the goods subject to the retention of title with movable or immovable property, the Buyer will assign such goods to ATB Motors as security , and will assign to ATB Motors the claim for the fee to which it is entitled for such combination, along with all auxiliary rights, in the proportion that the value of the combined goods subject to the retention of title has to the value of the other combined goods on the date of combination, without any further special statements being required.

- 10.5 If third parties levy attachment on goods delivered subject to the retention of title or wish to create rights on same or enforce rights to same, the Buyer will be obliged to inform ATB Motors of that circumstance as soon as possible.
- 10.6 The Buyer must insure the goods covered by the retention of title at replacement value. Any damages paid by the insurer will replace the aforementioned goods and will accrue to ATB Motors.
- 10.7 Should ATB Motors wish to exercise its proprietary rights as referred to in this Article, the Buyer hereby grants its unconditional and irrevocable permission to ATB Motors or any third parties to be designated by ATB Motors to enter those places where ATB Motors's goods are located and to recover those goods.
- 10.8 In the event of the Buyer's culpable violation of material contractual obligations, particularly in cases of default of payment, ATB Motors will be authorised to recover the goods after having issued a notice of said violation or default. The Buyer will be obligated to surrender such goods. The recovery of the goods supplied by ATB Motors, or the invocation of the retention of title or right of pledge to said goods, will not constitute a cancellation of the Agreement unless ATB Motors has explicitly stated otherwise. After giving prior notice, ATB Motors will be authorised to recover the goods subject to the retention of title as well as the revenues from those goods. This amount will be deducted from any outstanding claims.

Article 11 Suspension and Dissolution

11.1 ATB Motors will be entitled to suspend the fulfilment of its obligations or to dissolve the Agreement if:

- the Buyer fails to perform the obligations arising from the Agreement or fails to perform them in time or in full; circumstances of which ATB Motors has learned following the Agreement's conclusion provide good reason for fearing that the Buyer will not perform its obligations, or will not perform such in good time or in full; there is good reason to fear that the Buyer will only perform its obligations in part or will not perform such properly, suspension will be permitted only to the extent that such is justified by the relevant failure; or
- the Buyer was requested upon the Agreement's conclusion to provide security for the performance of its obligations ensuing from same Agreement and such security has not been provided or is insufficient. As soon as security has been provided, the right to suspend performance will lapse, unless the performance has been unreasonably delayed as a result.

11.2 In addition, ATB Motors will be entitled to dissolve the agreement or have it dissolved if circumstances arise of such a nature that performance of the Agreement is impossible or can no longer be required pursuant to standards of fairness and reasonableness, or if any other circumstances arise of such a nature that continued unamended maintenance of the agreement can no longer reasonably be expected.

11.3 In the event that the agreement is dissolved, ATB Motors's claims against the Buyer will become immediately due and payable. If ATB Motors suspends performance of its obligations, it will retain its rights and claims pursuant to the law and the agreement.

11.4 ATB Motors will at all times retain the right to claim damages.

Article 12 Cancellation

12.1 If the Buyer wishes to cancel an Agreement after same has been concluded with ATB Motors before ATB Motors has effected delivery to the Buyer, the Buyer will be charged 10% of the order price agreed upon, including Dutch VAT, in cancellation costs, without prejudice to ATB Motors's right to full damages, including loss of profit.

12.2 Notice of cancellation must be given in writing.

12.3 Orders for goods purchased especially for the Buyer cannot be cancelled.

12.4 If the Buyer has already paid ATB Motors the order price, the Buyer will be reimbursed the order price less 10% and the freight charges in the event of cancellation.

Article 13 Guarantee

13.1 The goods supplied by ATB Motors will be in accordance with the requirements and specifications set by Dutch law.

- 13.2 This warranty will be limited to:
- manufacturing defects and will therefore not include any damage resulting from wear and tear, improper, negligent or inexpert use or faulty or improper processing, handling, maintenance or storage;
 - deliveries to Buyers within the EU; replacement or repair of the good; and
 - the manufacturer's warranty, unless otherwise agreed.
- 13.3 This warranty will lapse:
- in the event of adaptations of, alterations to or changes to the delivered goods by the Buyer or a third party;
 - in the event of use for a purpose other than that indicated.
- 13.4 As long as the Buyer fails to perform its obligations ensuing from the Agreements concluded between the parties, it cannot invoke this warranty.

Article 14 Liability

- 14.1 In the event that ATB Motors is liable for direct damage, that liability will be limited to the amount paid out by its insurer, or in any event to the invoice amount, or in any event to that part of the invoice to which the liability pertains.
- 14.2 ATB Motors will under no circumstances be liable for indirect loss, including consequential loss, loss of turnover and profit, loss of savings and any loss due to an interruption in business operations.
- 14.3 ATB Motors will under no circumstances be liable for damage resulting from materials on or in the good that have been declared unfit because the environmental legislation has changed since the Agreement's conclusion.
- 14.4 ATB Motors will under no circumstances be liable for any deterioration of the good due to improper storage, processing, use or maintenance by the Buyer or a third party.
- 14.5 The Buyer will indemnify ATB Motors against any claims of third parties that may incur damage relating to the performance of the Agreement and which is attributable to the Buyer.
- 14.6 ATB Motors will under no circumstances be liable for damage ensuing from incorrect use of the good, from use that is not in accordance with the instructions for use or from use for a purpose other than that for which the good is intended.
- 14.7 ATB Motors will under no circumstances be liable for damage ensuing from any advice given. Advice will always be given on the basis of the facts and circumstances known to ATB Motors and of mutual consultations, in which respect ATB Motors will always use the Buyer's intention as a guideline and starting point.
- 14.8 The Buyer should ascertain in advance whether the purchased goods are suitable for the purpose for which it intends to use same. Should it emerge in retrospect that the purchased good is not suitable for its intended use, the Buyer will not be able to hold ATB Motors liable for any ensuing damage.
- 14.9 If ATB Motors approves a return shipment, ATB Motors will be entitled to charge the Buyer a handling fee amounting to 15% of the invoice amount.

- 14.10 The limitations of liability with respect to direct damage laid down in these General Terms and Conditions will not apply in the event that the damage is attributable to an intentional act or omission or gross negligence on the part of ATB Motors or its employees.
- 14.11 To the extent the Buyer has a claim for losses pursuant to this Article, these claims will expire in accordance with the expiry term for claims pursuant to defects, in accordance with the Article entitled "Inspection and Complaints". In the case of loss claims pursuant to strict liability, the statutory limitations for instituting claims will apply.

Article 15 Passing of Risk

- 15.1 Even if a carriage-paid delivery is agreed, the risk will pass to the Buyer as follows:
- a) in the case of deliveries without installation or assembly, on the date the goods are shipped or collected. ATB Motors will, upon the Buyer's request and at the Buyer's expense, insure the goods for the usual transport risks.
 - b) in the case of deliveries involving installation or assembly, on the date the goods are included in the Buyer's own business or, if so agreed, upon an error-free trial operation.
- 15.2 If the shipment, delivery, start-up, installation or assembly, inclusion in the Buyer's own business or the trial operation are delayed for reasons attributable to the Buyer or if the Buyer defaults on the acceptance in some other way, the risk will pass to the Buyer.

Article 16 Force Majeure

- 16.1 Neither party will be obliged to fulfil any obligation if it is prevented from doing so due to a circumstance which cannot be attributed to gross negligence or an intentional act or omission on its part, and which is also not for its account pursuant to the law, a juristic act or generally prevailing opinion.
- 16.2 In these General Terms and Conditions, the term '*force majeure*' must be understood to mean, in addition to its meaning according to statutory and case law, all external causes, foreseen or unforeseen, which ATB Motors cannot influence, but as a result of which ATB Motors is fully or partially unable to perform its obligations, or unable to perform them on time. This will include strikes at ATB Motors's company, transport strikes, traffic congestion, tailbacks, car trouble, theft, fire, export impediments, power failures and delays in the supply of goods by suppliers.
- 16.3 ATB Motors will also be entitled to invoke *force majeure* if the circumstance preventing performance or further performance arises after ATB Motors should have performed its obligations.
- 16.4 The parties may suspend the obligations ensuing from the Agreement while the situation of *force majeure* lasts. If this period lasts longer than two months, either party will be entitled to dissolve the Agreement without being obliged to pay the Buyer damages.

- 16.5 To the extent that ATB Motors has performed part of its obligations ensuing from the agreement or will be able to perform part of same upon the situation of *force majeure* occurring, and the work performed or to be performed has independent value, ATB Motors will be entitled to invoice the work performed or to be performed separately. The Buyer will be obliged to pay that invoice as if it pertained to a separate agreement.

Article 17 Intellectual and Industrial Property

- 17.1 Without prejudice to the provisions of these General Terms and Conditions, ATB Motors reserves the rights and powers vested in it pursuant to the Dutch Copyright Act [*Auteurswet*].
- 17.2 All brochures, catalogues, price lists, documents and other materials or electronic or other files made available by ATB Motors will remain ATB Motors's property, irrespective of whether same have been made available to the Buyer or to third parties, unless provisions to the contrary have been agreed. Such goods are exclusively intended for the Buyer's use and may not be reproduced, made public or be brought to the notice of third parties without ATB Motors's prior permission, unless the contrary ensues from the nature of the documents provided.
- 17.3 The Buyer will have the non-exclusive right to use the standard software with the agreed functionalities in its unaltered form on the agreed equipment. The Buyer may make a back-up copy without an express agreement to that effect.
- 17.4 To the extent not agreed otherwise, ATB Motors will be obliged to deliver the goods free of any third-party ownership or copyrights (referred to hereinafter as "Protected Rights") in the country where the delivery will be made. To the extent that such third parties can effect a claim against the Buyer as a result of ATB Motors's violation of such rights with regard to goods delivered by ATB Motors and used in accordance with the Agreement, ATB Motors will be liable to the Buyer for the term set out in the Article entitled "Inspection and Complaints", as follows:
- a) At its own discretion and expense, ATB Motors will arrange to either obtain the right to use the delivered goods in order to ensure that Protected Rights are not violated, or replace the goods in question. If this is not reasonably possible for ATB Motors, the Buyer will be entitled to dissolve the Agreement or reduce the price, in accordance with the statutory provisions governing same.
 - b) ATB Motors's obligation to pay damages, as set forth in Article 14.
 - c) ATB Motors's aforementioned obligations will only be created if the Buyer immediately informs ATB Motors, in writing, of the third-party claims if the violation is not acknowledged and ATB Motors reserves the rights to assert all defences and settlements. If the Buyer ceases using the delivered goods in order to mitigate a loss or for other significant reasons, it will be obliged to inform the third party that the cessation does not constitute an acknowledgement of any violation from which any rights can be derived.
- 17.5 The Buyer's claims will be excluded to the extent that the violation of the Protected Rights is attributable to the Buyer.

- 17.6 The Buyer's claims will also be excluded to the extent that the violation of the Protected Rights is attributable to the Buyer having issued instructions to use the delivered goods for a use not intended by ATB Motors or if such results in the delivered goods being altered or used in combination with goods not supplied by ATB Motors.
- 17.7 Claims on the part of the Buyer against ATB Motors and third parties the latter has engaged are excluded, on the basis of lacking legal grounds, to the extent that such claims exceed or differ from those set forth in this Article.

Article 18 Confidentiality

- 18.1 Each party will be obliged to observe confidentiality regarding all confidential information that it receives from the Buyer or from some other source in the context of the Agreement. Information will be considered confidential if it has been designated as such by the relevant party or if its confidential nature ensues from the nature of the information.
- 18.2 In the event that ATB Motors is obliged pursuant to a statutory provision or a judicial decision to provide third parties designated by law or by the competent court with confidential information and ATB Motors is unable to invoke a right to decline to give information acknowledged or allowed by law or by the competent court, then ATB Motors will not be obliged to compensate the Buyer or pay it damages and the Buyer will not be entitled to dissolve the Agreement on the basis of any damage that may have arisen as a consequence.

Article 19 Authentic Version

The Dutch-language version of these General Terms and Conditions is the only authentic version. In the event of any discrepancy between the Dutch text and a translation, the Dutch text will prevail.

Article 20 Disputes

The competent court in the city or town where ATB Motors has its registered office will be competent to take cognisance of any disputes between the parties, to the exclusion of all other courts. Nevertheless, ATB Motors will be entitled to submit the dispute to the competent court in accordance with law.

Article 21 Applicable Law

All agreements between ATB Motors and the Buyer will be governed by Dutch law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods [*Weens Koopverdrag*] is explicitly excluded.

Article 22 Filing of these Terms and Conditions

These Terms and Conditions have been filed at the office of the Chamber of Commerce Oost Nederland at Enschede under number 08077833.