



GENERAL CONDITIONS OF SALE

These conditions are applicable to every offer, quote, purchase order and agreement between Distributor and Atus and no other terms and conditions (whether contained in Distributor's purchase order or otherwise) shall be binding unless they are expressly agreed to in writing by Atus.

If any of the terms and provisions of these general conditions are determined to be invalid or unenforceable by any court of competent jurisdiction, it shall not invalidate the rest of these general conditions which shall remain in full force and effect as if such term(s) or provision(s) had not been a part of these general conditions.

If Atus does not always desire strict compliance with these conditions, this does not mean that these conditions are no longer applicable, or that Atus would lose the right to desire strict compliance of these conditions in other cases.

1. Documents

All technical information in relation to Atus' products and their maintenance remains Atus' property and, except where intended to serve as instructions for use or advertising matter, may not be utilized or copied, reproduced, transmitted or communicated to third parties without Atus' prior written consent. Illustrations, catalogues, colors, drawings, dimensions, statements of weight and measurements etc. made available by Atus as printed information are only meant to present a general idea of the goods to which they refer; they are approximate only and therefore not binding upon Atus.

2. Trade terms

Unless otherwise agreed the latest edition of the Incoterms issued by the International Chamber of Commerce shall apply, it being understood that:

(a) under C.I.F./C.I.P. terms Atus shall provide for marine insurance during the transport from Atus' warehouse to Distributor's warehouse against all risks of the carriage involved in the contract on the conditions of the Institute Cargo Clauses (All Risks) provided always that insurance against war risks and strike risks will be arranged in conformity with the Institute War Clauses and the Institute Strikes Riots and Civil Commotions Clauses to the extent such insurance is reasonably procurable at the time of shipment according to the Institute of London Underwriters.

(b) under any terms holding Atus liable for the costs of transportation and/or insurance, any additional costs of rerouting and/or surcharges which are the result of circumstances or events that are beyond Atus' reasonable control such as, but not limited to, those enumerated under "force majeure" in paragraph 5 hereof, shall be for Distributor's account.

In case the goods cannot be dispatched to their destination at the date scheduled therefore by reasons attributable to Distributor and/or outside Atus' reasonable control, Atus shall be entitled to store the goods concerned at Distributor's expense and risk, in which case the warehouse receipts shall serve as substitutes for the shipping documents in all respects and Distributor undertakes to pay within fourteen (14) Days of Atus' first demand any and all additional costs and expenses so incurred.

In the absence of any terms in Atus' quotation, the goods shall be considered to have been offered Ex Works (EXW) in accordance with the same Incoterms, and if in such case Atus undertake to send the goods to its destination, at the request of Distributor, the risk will pass not later than when the goods are handed over to the first carrier.



3. Dispatch

Full forwarding instructions must be sent with the order. The times given for (readiness for the) dispatch have to be reckoned – all in accordance with the other provisions specified in Atus' quotation – from the date of Atus' written confirmation of the order or, where a Letter of Credit and/or other payment instrument has been asked for, from the date of the bank's advice that the Letter of Credit and/or other payment instrument asked for has been established in conformity with Atus' requirements and the advance payment – if required – has been received, whichever of said dates is the later. Atus reserve the right to dispatch the goods in consignment as and when they are ready for dispatch. Any delay in the fulfillment of the above-mentioned conditions will entitle Atus to being compensated for the additional costs resulting from the suspension of the execution of the order/contract and where such delay would exceed a period of three months to cancel the order/contract without being held liable towards Distributor.

4. Cancellation of purchase orders

If Distributor cancels a purchase order, in whole or in part, then Distributor shall be obliged to pay Atus all costs of ordered/purchased parts or components or already completed items, in so far they are specifically made to and subject to this purchase order, as well as the related costs unless expressly otherwise agreed with and confirmed in writing by Atus.

5. Force majeure

In the event of the occurrence of force majeure as defined hereinafter, Atus shall be entitled to suspend delivery of the goods and/or provision of services for the duration of the prevention or delay caused by such force majeure, without being held responsible for any damage resulting therefrom to Distributor or any third party.

A failure in the performance of the order cannot be imputed to Atus, if it does not result from Atus' fault, and if Atus cannot be held accountable for it by law, by the definition below of force majeure or common opinion. In case of such a non-attributable failure of performance, the relevant part of the order will be suspended. Atus will inform Distributor on the occurrence of such failure as soon as possible. In the event the suspension has lasted for five (5) consecutive months or as soon as it is established that the suspension will last for at least five (5) consecutive months, either party shall be entitled to terminate partially or in whole the order without being held liable to any indemnity whatsoever towards the other party.

The expression "force majeure" shall for the purpose hereof mean and include circumstances or occurrences beyond a party's reasonable control – whether or not foreseeable at the time of the confirmation of the order – in consequence of which that party cannot reasonably be required to execute its obligations regarding the order. Such circumstances or occurrences include but are not restricted to: acts of God, war, civil war, insurrection, fires, floods, labor disputes, strikes, epidemics, governmental regulations and/or similar acts, freight embargoes, non-availability of any permits, components, licenses and/or authorizations required, defaults or force majeure of suppliers or subcontractors.

6. Complaints and returns

Any complaints of erroneous dispatch shall be made in writing within fourteen (14) Days after receipt of the goods by Distributor giving the reason for the request to return the goods and the date and number of Atus' invoice. If return of the goods is agreed upon by Atus in writing by means of a return authorization notice, the goods shall be forwarded in accordance with Atus' instructions; all goods returned must be consigned insurance and carriage prepaid by Distributor and packed in their original packing.

7. Complaints and on-site support

Any complaint of erroneous operation of products in a system, or a system as a whole, shall be made in writing by Distributor. If such a complaint is unfounded and not for the accountability of Atus, Distributor shall be obliged to pay Atus all costs made by Atus for on-site support, including travel and lodging and time consumed by Atus staff.



8. Prices

Prices are in Euro and based on standard packaging of the goods.

Product Prices are made available to Distributor by Atus' Price List. This document shall be subject to changes by Atus at its sole discretion and at any moment in time.

We reserve the right to adjust the prices in the event of changes of delivery date(s) or changes in other circumstances upon which our agreement is based and which fall beyond Atus' control.

In case of a quotation made by Atus, this quotation is open for acceptance and prices contained remain valid – unless expressly withdrawn – within the period stated therein, or when no period is stated within ninety (90) Days only from the date thereof. Any order or orders arising from Atus' quotation shall be subject to Atus' confirmation in writing (including telefax and e-mail).

A quoted price for a specific Bill of Quantity does not imply a commitment of Atus to apply the same pricing to a part of this Bill Of Quantity. Special offers or quotes are not automatically valid for future purchase orders.

9. Payment/Letter of Credit

Distributor shall, unless otherwise agreed upon, pay to Atus all amounts due hereunder in Euro – unless expressly agreed otherwise – out of an irrevocable letter of credit to which the prevailing Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce in Paris apply. Distributor shall arrange for the opening of the letter of credit by a first class bank in Atus' favor payable cash with and bearing the conformation of a bank in the Netherlands, acceptable to Atus, within twenty one (21) Days from the date of Atus' order confirmation or prior to the delivery date, if the delivery date falls within said twenty one (21) day period. The letter of credit shall have a minimum validity equal to the delivery period and shall be extended upon Atus' request. In case partial deliveries have been agreed upon the letter of credit shall provide for pro rata payments thereunder.

In cases no letter of credit applies payment will constitute a valid discharge only in so far as an account payable by a first class bank in the Netherlands on demand is credited in Atus' favor, irrevocably and free of charge, in the currency quoted, in freely convertible and transferable funds, at its exact due date. In the absence of any specifically agreed payment terms, the payment term shall be thirty (30) Days after the date of invoice.

Should Distributor fail to pay within the specified time, then Atus shall provide written notice to Distributor of such failure and Atus may stop shipments to Distributor until payment is received or seek damages at law.

10. Retention of title

Without prejudice to the passing of the risks in accordance with the applicable trade term as described above, Distributor explicitly accepts that Atus shall retain ownership of the goods until full payment has been received of all amounts due in accordance with the contract and Distributor shall not resell the goods other than in the normal course of business and shall take all measures to protect the goods and to ensure that Atus' title to the goods is in no way prejudiced.

Distributor shall be obliged to insure the goods at its own expense for the time they remain Atus' property. Distributor shall provide Atus with any assistance in taking any measures required to protect Atus' property rights.

If Distributor fails to make any payments to Atus when due, Distributor shall, upon Atus' first notice, be obliged to return to Atus, at Distributor's risk and expense, any goods that are subject to the retention of ownership. The retention of ownership and the shipping back of goods shall not in any way affect any other rights of compensation Atus may have by these Conditions of Sale or applicable Law. If retention of title is not valid under applicable law, Atus shall be entitled to rights as closely as possible to the rights above as such law permits and Distributor shall cooperate with Atus in perfecting such rights.



11. Tests

Atus' goods are carefully inspected and, where practicable, submitted to standard test at the factories before dispatch. If special tests in the presence of Distributor or his representative are required, these must be specified by Distributor when giving the order and shall, if agreed by Atus, be made before dispatch; all costs connected with such tests will be charged extra. In the event of any delay on the part of Distributor in attending such tests after fourteen (14) days' notice that the goods are ready to be tested, the tests will proceed in Distributor's absence and shall be deemed to have been made in his presence.

12. Installation / Commissioning

The (cost of) installation, installation material and commissioning of the goods supplied by Atus is not included in Atus' quotation. Distributor agrees to indemnify Atus from any liability or expense Atus may incur as a result of any installation works by or on behalf of Distributor.

13. Guarantee / Warranty

We guarantee to Distributor that products delivered shall conform to the applicable specifications of the product and shall be free of defects in design, workmanship and material other than resulting from normal wear and tear and under proper use, for the period stated, or when no period is stated, for a period of twelve (12) months as from date of production. Batteries, cables and accessories are excluded from above guarantee/warranty.

This guarantee does not cover damage, internal or external, sustained by disassembly, opening or misuse of the Product in any way, other than for agreed normal intended use or any damage arising in consequence of negligence or improper handling, installation, cabling, design work of the goods or parts thereof or unauthorized installation, combination or integration with third party systems, subsystems, products or components by Distributor or Distributor's agents, or of maintenance by unauthorized persons or dealers, or of improper storage in the event of the goods wholly or partly being stored by Distributor previous to installation or use.

Within the warranty period, the warranted Product is repaired or replaced at Atus discretion at facility to be designated by Atus. Products out of warranty handling will be returned to Distributor in unrepaired condition or will be repaired at Distributor's expenses as to be agreed separately.

For products to be sent in for Repair to the Atus Repair Centre, the ATUS General Conditions Repair & Services "AGCR&S_en_1525" are applicable. A copy hereof will be sent to Distributor on request.

Products, which do not function as specified when checked on arrival, are referred to as "Dead On Arrival" (DOA). Distributor can claim a DOA within four (4) weeks after date of invoice or date of Dispatch Note, if claim is accompanied by a detailed problem description. Claims can be made to Atus by email to services@atusbv.com.

In case of repair attempts or attempts to open the Product by Distributor or any other party, the right to claim a DOA will be lost. A claimed and accepted DOA Product will in principle be replaced by a brand new Product.

All freight and transportation costs for Products from Distributor to Atus are on Distributor's expense, all freight and transportation costs for Products from Atus to Distributor are on Atus' expense.

For the prevention to ship non-warranty products to Atus, Distributor will take care of a 1st line screening to eliminate nuisance and system related problems for the Product. A limited warranty on repair handling is given for a maximum of 90 Days following the first repair, in case a reasonable correlation is available between problem descriptions and repair.



14. Liability

We shall not be liable for any damage whatsoever, except in case such damages were intentional or the result of negligence of Atus or of persons authorized to provide services on Atus' behalf.

We will not accept liability nor claims for trading loss or other consequential, special, indirect, or punitive damages.

In case of a possible liability of Atus, an obligation of Atus to compensate for damage will at all times be limited to maximally the amount which in the given case will be paid as result of Atus' liability insurance and otherwise up to a maximum of € 45,000.

Any claim for compensation, without prejudice of the above, will cease validity after one (1) year following the occurrence of the damage.

We shall not be liable for damages or losses other than those for which Atus have expressly assumed liability. Distributor shall indemnify and hold Atus harmless from any and all such claims of third parties.

15. Software and Documentation

Ownership of and title to Software and Documentation made available to Distributor shall remain vested in Atus and/or in the third party which authorized Atus to sublicense its Software, regardless of whether it was or was not prepared specifically for use by Distributor. Distributor shall in no event reproduce, reverse engineer or modify the Software unless and to the extent permitted by mandatory law applicable to these General Conditions of Sale, nor divulge, make available or permit to use the Software, in any form, to any third party without Atus' prior written consent and Distributor assumes full liability for the protection and integrity of the Software.

16. Software problem solving

We accept no liability for Software relating problems. In case of a Major Problem in the Software which is reproducible, Atus undertakes all commercial endeavors to start within 5 (five) Days, from the date of Problem reporting to Atus, at providing a workaround in order to restore the usability of the Product. Minor Software Problems are to be addressed by Atus in future Updates or Upgrades in accordance with good engineering practices. In consultation with Distributor Atus shall implement a definite solution to the Problem.

17. Confidentiality

Distributor agrees to keep at all times strictly confidential any and all information concerning the technical, commercial and financial data in respect of the goods, including, without limitation, Software if applicable, and confidential data of Atus' business and the contract (collectively "Confidential Information"), which may come to the knowledge of Distributor, and will return to Atus immediately upon Atus' first request all tangible Confidential Information.

Distributor agrees (i) to use Confidential Information solely to the extent required to implement the contract, and (ii) to undertake all steps necessary to prevent any unauthorized use or disclosure of Confidential Information to any person and/or third party to whom such disclosure is not required to implement the contract. In case of doubt Distributor agrees to request Atus in writing for Atus' opinion.

18. Taxes

All taxes, duties, levies and similar expenses, which are or become due in connection with Atus' offer, any order or contract resulting therefrom and the carrying out thereof are for Atus' account as far as they are due in the supplier's country or in such other country or countries in which the goods are manufactured, and for the account of Distributor as far as they are due in Distributor's country or in such other country or countries for which the goods are destined or in which any services will be performed, irrespective of which party (including its representatives/employees) will be liable to pay such taxes.



19. Export Control

Distributor acknowledges that the goods and/or Documentation supplied may be subject to United States or any specific local export regulations and Distributor acknowledges that it is familiar or agrees to become familiar with such regulations. Distributor furthermore agrees that it will not deal with the goods and/or Documentation in violation of such regulations.

20. Miscellaneous

The law of the Netherlands shall be applied with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.