

## **GENERAL CONDITIONS OF SALE APPLICABLE FROM 21 JUNE 2013**

### **DEFINITIONS:**

**ATT** – ATT Sp. z o.o. with the registered office in Krakow, ul. Albatrosów 16C, entered in the National Court Register kept by the District Court in Krakow with the no. KRS 0000218527, NIP 6792822085, share capital of PLN 50,000

**Buyer** – Buyer of Products and Services

**Sale Agreement** – Agreement concerning sale of Products and Services made by and between ATT and the Buyer

**Products and Services** – Products, Goods, and Services offered by ATT as a part of its business activities, including spare parts and accessories to products and goods

**Price** – price of goods and services, excluding VAT and other mandatory public fees, on condition of EXW delivery

**Business Day** – a day other than a statutory non-business day according to Polish law

### **1. SUBJECT MATTER OF GENERAL CONDITIONS OF SALE (“GENERAL CONDITIONS”)**

**1.1.** The General Conditions specify principles of making Sale Agreements by ATT and are an integral part of all Sale Agreements made by and between ATT and the Buyer (hereinafter referred to jointly as “Parties”).

**1.2.** The General Conditions are binding for the Buyer upon the delivery hereof at entering into an Agreement or upon the moment when the Buyer was able to read the contents hereof easily. The General Conditions are published by ATT on the ATT website [www.att.eu](http://www.att.eu).

**1.3.** The Sale Agreement may contain provisions different from these resulting from the General Conditions. In such a case, the provisions of the Sale Agreement shall be binding for the Parties.

**1.4.** In case of any inconsistencies between the General Conditions and regulations or agreement templates used by the Buyer, the Sale Agreement shall not include the provisions which are inconsistent.

**1.5.** In the case described in sec. 1.4, the Parties are obliged to promptly notify each other of any inconsistencies. The Parties shall have the right to refuse to enter into the Agreement if they fail to reach agreement concerning the scope of application of the General Conditions in reasonable time.

**1.6.** If the Parties have made an agreement different than one related to the regulation of the sale or distribution principles concerning Products and Services, the provisions of that agreement shall apply in case of any inconsistencies between the provisions thereof and the General Conditions.

**1.7.** Declarations of will of the Parties to the Sale Agreement may be made in writing or by fax or e-mail on condition that the confirmation of receipt has been received. All spoken representations shall be binding upon being made in the form described in the first sentence.

## **2. ORDERS**

**2.1.** In order to start the procedure of making the Sale Agreement, the Buyer shall send the following to ATT:

- (a) an enquiry concerning the possibilities and conditions of purchasing Products and Services specified in the enquiry (ref. to sec. 2.2-2.8); or
- (b) an order for Products and Services (ref. to sec. 2.9 – 2.13).

**2.2** If ATT has received the enquiry, it shall send an offer to the Buyer, which shall include at least the following:

- a) the specification of Products and Services verified in terms of availability of products in manufacturing plans,
- b) net price in PLN/EUR/USD,
- c) payment conditions, including payment date and estimated delivery time.

**2.3.** The offer presented by ATT shall be binding for ATT for 14 days unless specified otherwise in the offer.

**2.4.** During the offer validity period, the Buyer may accept the offer at all times by placing an order for Products and Services included in the offer.

**2.5** An order of the Buyer preceded with the ATT offer should include:

- a – a reference to the offer, the specification of ordered Products and Services according to symbols included in the offer, and the required delivery time which is not shorter than the time specified in the offer,
- b – the delivery place of Products and Services,
- c – the first and last name of the person authorized to receive Products and Services.

**2.6.** Orders containing changes as compared to the offer or supplementing the contents thereof shall not be treated as the acceptance of the offer but as a new enquiry about the possibility of buying Products and Services, which shall require a new offer. In such a case, the current offer shall become null and void.

**2.7.** Having received the order specified in sec. 2.5, ATT shall promptly (2 business days) provide the Buyer with a confirmation of acceptance of the order, specifying the value of Products, payment date, and delivery date.

**2.8.** Upon the acceptance of the offer by the Buyer (i.e. the receipt of the order by ATT), the Sale Agreement is made which consists of the ATT offer, the Buyer's order, and the General Conditions.

**2.9.** The Buyer may resign from the stage of making an enquiry concerning the conditions of purchasing Products and Services and may just place an order concerning Products and Services, which shall in such a case be an offer of the Buyer of purchasing Products and Services on conditions specified in the order.

**2.10.** The order of the Buyer which was not preceded with the ATT offer must include the following elements:

- (a) specification of ordered Products and Services,
- (b) required delivery time, no shorter than that specified in sec. 3.1 or 3.2 of the General Conditions,
- (c) possible other conditions agreed upon beforehand with ATT.

**2.11.** Unless otherwise agreed with ATT, in case of orders placed using the procedure described in sec. 2.9, the price of Products and Services shall be determined based on a current pricelist and possible discounts granted to the Buyer in question and payment conditions shall be determined based on sec. 5.4 hereof.

**2.12.** ATT shall accept orders placed by the Buyer using the procedure described in sec. 2.9 by sending the confirmation of acceptance of the order to the Buyer. Upon the receipt of the confirmation by the Buyer, The Sale Agreement is made, which consists of the Buyer's order, the confirmation of acceptance of the order by ATT, and General Conditions.

**2.13.** ATT may refuse to accept the Buyer's order without stating the reasons by notifying the Buyer of such refusal within 5 business days following the receipt of the order.

**2.14.** Regardless from the procedure of making the Sale Agreement, ATT shall have the right to make corrections of obvious writing mistakes in the Buyer's orders, including without limitation mistakes concerning the determination of Products and Services. ATT shall notify the Buyer of the corrections made in the confirmation of acceptance of the order. In case the Buyer does not agree to the corrections, the Sale Agreement shall not be made. No response of the Buyer within 2 business days shall be recognized as granting a consent to the completion of the order corrected by ATT.

**2.15.** In case of an order for Products and Services which have been withdrawn from production, ATT shall have the right to replace the ordered Products and Services with ones which are currently manufactured and equivalent by notifying the Buyer of the fact. No response of the Buyer within 2 business days shall be recognized as granting a consent to the replacement of ordered Products and Services by ATT. If the Buyer does not consent to the replacement of Products, ATT shall refuse to accept the order.

**2.16.** A resignation by the Buyer from the whole or a part of the order after making the Sale Agreement as well as the introduction of changes to the order shall not be taken into account unless such a possibility was provided for in writing in the ATT offer or in the confirmation of acceptance of the order.

**2.17.** The Buyer shall be held responsible to ATT for all damage resulting from unjustified resignation from the whole or a part of the order after making the Sale Agreement.

**2.18.** Until the acceptance of the order by ATT, the Buyer shall not have the right to any compensatory or similar claims on account of a failure to perform the Agreement or an improper performance thereof; in

particular the Buyer shall not have the right to have lost profits returned or costs of the preparation of the enquiry or order reimbursed.

**2.19.** If the Buyer intends to start conducting a project of a complete draining system for a facility or to take part in a tender concerning such a system ("Project"), it should promptly notify ATT of the fact. In such a case, ATT may, at its discretion, treat the notified Project with priority and complete orders of the Buyer concerning the Project on separately agreed conditions.

### **3. DELIVERY TIME**

**3.1.** If Products ordered by the Buyer are kept in ATT warehouses, the delivery time shall be 5 working days following the date on which ATT received an advance payment pursuant to the payment conditions specified in the offer, sec. 5 hereof, and the final agreed version of the technical documentation to the order.

**3.2.** In case of orders for Products which require individual preparation for the Buyer's order, the delivery time shall be 4 weeks calculated from the date on which ATT receives an advance payment according to payment conditions specified in the offer, sec. 5 hereof, and the final agreed version of the technical documentation to the order.

**3.3.** In case of orders for Products which require individual preparation and a significant quantity/volume, the delivery time shall be agreed each time individually. ATT shall also have the right to complete the order in instalments, having agreed upon this with the Buyer beforehand.

**3.4.** ATT undertakes to deliver Products and Services on time. However, on no condition shall ATT be held responsible for delays in deliveries for reasons independent from ATT and, unless explicitly agreed otherwise, ATT shall not be held responsible for penalties paid by the Buyer to its contractors or for other claims laid by such contractors to the Buyer on account of delays in the delivery of Products and Services and lost profits.

### **4. PLACE OF DELIVERY; COSTS OF TRANSPORT**

**4.1.** Unless agreed otherwise, ATT shall sell Products on the EXW conditions.

**4.2.** If delivery conditions differ from those specified in sec. 4.1. and there was no information on the delivery place in the order, the delivery place shall be the registered office of the Buyer.

**4.3.** Costs of delivering Products shall be paid by the Buyer unless the Parties have agreed otherwise.

**4.4.** Unless agreed otherwise, the costs of unloading Products at the delivery place shall be paid by the Buyer.

**4.5.** All benefits and burdens related to the Products, including risk of incidental loss or damage, shall be transferred to the Buyer upon the delivery of Products or, in the cases specified in sec. 4.2., before the unloading in the delivery place.

**4.6.** Before the unloading, the Buyer is obliged to examine the delivered Products in the manner appropriate to the size and type of Products and the packaging thereof; in case of any defects or damage which could be caused during transport, the Buyer is obliged to perform all activities essential to determine the responsibility of the carrier, including without limitation to draw up a report confirming the determined defects and damage. The report should be drawn up upon delivery and should be confirmed by the carrier. The Buyer is obliged to promptly notify ATT of determined defects or damage and to send a copy of the report, no later than on the day following the delivery or else the Buyer shall lose the right to any compensatory claims to ATT on this account.

**4.7.** In case of a default in obligations specified in sec. 4.6 through the fault of the Buyer, the Parties shall recognize that the delivery is consistent with the order in terms of quality and quantity.

**4.8.** Unless agreed otherwise, in case of EXW sales, the delivery time of Products shall be recognized as the moment when the unloading or giving out of goods from the ATT warehouse was started.

**4.9.** In case of an EXW delivery, the Buyer shall have an obligation to examine the delivered Products in the manner appropriate to the size and type of Products and the packaging thereof before signing the stock issue confirmation; in case of any defects or damage, the Buyer shall report them and have them confirmed by the issuing person or else the Buyer shall lose the right to any claims to ATT on that account.

## **5. PRICELIST OF PRODUCTS; PAYMENT CONDITIONS**

**5.1.** ATT shall provide the Buyer with a Pricelist of Products ("Pricelist"). ATT hereby reserves the right to change the Pricelist; a new Pricelist shall be binding for the Buyer each time upon the delivery thereof to the Buyer or upon the moment when the Buyer is able to read the contents of the new Pricelist easily in any other way. ATT may also, at its discretion, provide the Buyer with the list of discounts and rebates available to the Buyer.

**5.2.** An offer shall contain prices in PLN/EUR/USD resulting from the pricelist.

**5.3.** The pricelist shall contain net prices of Products, excluding VAT, which shall be added at the currently applicable rate.

**5.4.** Unless otherwise specified in the offer, the Buyer is obliged to make an advance payment of 100% of the price of ordered Products at the latest within 7 days following the date on which the Buyer received the confirmation of acceptance of the order.

**5.5.** All payments shall be made by credit transfer to the bank account of ATT specified in the document which the payment obligation results from.

**5.6.** The Buyer is obliged to make all payments to ATT on time. For each day of delay in payment, ATT shall have the right to calculate statutory interest at the rate resulting from art. 359 (2<sup>1</sup>) of the Civil Code.

**5.7.** ATT reserves the right to suspend the performance of the Sale Agreement and the issue of Products in case the required advance payment has not been made.

**5.8.** ATT shall have the right to suspend the performance of all or a part of Sale Agreements made with the Buyer in question and to suspend the acceptance of new orders of the Buyer in case of any overdue payments of payable invoices or in case of exceeding the borrowing limit agreed with the Buyer, i.e. the limit of non-mature receivables due to ATT from the Buyer increased by the value of confirmed orders.

**5.9.** The Buyer hereby authorizes ATT to issue VAT invoices without a signature of a person authorized to receive them and to send them to the correspondence address specified by the Buyer.

**5.10.** The payment date shall be recognized as the date on which the ATT bank account was credited.

**5.11.** In case the Buyer delays a payment, the paid amounts shall be recognized as the following in the specified order:

- a) costs of collecting receivables, including costs of reminders and payments requests, costs of legal services, and costs of court and administrative fees,
- b) costs specified in sec. 5.6.,
- c) the principal.

**5.12** Unless agreed otherwise, all costs, commissions, interest, and other charges related to payments made to ATT by the Buyer related to the bank account of the Buyer shall be paid by the Buyer.

## **6. GUARANTEE**

**6.1.** ATT hereby grants a guarantee for sold Products on conditions specified in Polish law, in particular art. 577-580 of the Civil Code. Unless agreed otherwise, the guarantee period shall be 12 months.

**6.2.** The Buyer shall be held exclusively responsible to users of Products on account of claims laid by them and for due and prompt completion of all guarantee procedures. The Buyer shall be responsible for doing repairs of products using parts delivered by ATT at the Buyer's expense.

**6.3.** The guarantee granted by ATT shall not include defects of Products which appeared after the issue of Products to the Buyer; the Buyer shall be held fully responsible for such defects.

**6.4.** In particular, ATT shall not be held responsible for the consistency of Products with the Buyer's or users' expectations, for the correct fixing of Products in the target building or room, and for incorrect matching of Products to the parameters of a building or a room.

**6.5.** Responsibility on account of statutory guarantee shall be excluded. Compensatory responsibility of ATT on any account shall be limited to the value of Products sold. Furthermore, ATT shall not be held responsible for profits lost by the Buyer or a user of Products.

**6.6.** In case ATT issues a guarantee card for Products, provisions included therein shall be complementary to the provisions hereof concerning the scope of the guarantee. In case of any inconsistencies of the guarantee card with the General Conditions, the guarantee card shall prevail, except for sec. 6.2-6.5, which shall be applicable regardless from the provisions of the guarantee card. If ATT has not issued a guarantee card, an invoice or a receipt issued by ATT shall be recognized as a guarantee document concerning the quality of the sold object as specified in art. 577 (1) of the Civil Code.

## 7. RESERVATION OF OWNERSHIP

**7.1.** ATT hereby reserves the ownership title to all Products until the Buyer has paid the full price thereof. Until that time, the risk of loss, damage, or reduction of the value of Products shall be borne by the Buyer.

**7.2.** Upon the making of the Agreement, the Buyer shall transfer to ATT all claims to the contractors of the Buyer which will arise on account of the resale of the Product covered with the reservation of the ownership title.

**7.3.** If the Buyer transfers the ownership title to a third party before paying the price, the amount received on that account shall be firstly allocated to the satisfaction of ATT claims. If it is not possible to recover the amount on this account, the Buyer shall be responsible for the resulting damage.

**7.4.** Apart from the cases specified herein, the Buyer may not transfer the rights and obligations under the Agreement to any other person and to set off receivables resulting from the Sale Agreement without a consent of ATT.

## 8. CONFIDENTIAL INFORMATION

**8.1.** ATT may disclose confidential information to the Buyer. Provided ATT does not grant a written consent beforehand, the Buyer shall not use or disclose such information to third parties. Confidential information includes without limitation data on granted discounts.

**8.2.** The Buyer who uses or cooperates with third parties when performing the Agreement is obliged to notify such parties of the obligation of confidentiality concerning confidential information and to enforce the obligation of confidentiality on such parties efficiently to the same extent to which this obligation pertains to the Buyer.

## 9. MODIFICATIONS OF GENERAL CONDITIONS

**9.1.** General Conditions may be modified by ATT at all times. ATT shall make all efforts, in particular through an announcement on its website, to notify Buyers of modifications of General Conditions. The modified General Conditions shall become applicable upon the announcement on the website [www.att.eu](http://www.att.eu).

**9.2.** All modifications hereof shall not pertain to Sale Agreements made prior to such modifications, i.e. before the modified General Conditions have become applicable.

## 10. FORCE MAJEURE

**10.1.** No Party shall be responsible for a failure to perform its obligations under a Sale Agreement or an improper performance thereof as a result of force majeure.

**10.2.** Force majeure shall be recognized by the Parties as extraordinary events which are independent from the Party in question and impossible to foresee and prevent, also in case when the avoidance of such an event would require that actions be taken whose costs would exceed salvageable benefits; force

majeure includes without limitation wars, natural disasters, such as earthquakes or floods, explosions, fires, strikes etc.

## **11. FINAL PROVISIONS**

**11.1.** The Parties shall strive to settle all disputes related to the interpretation or performance of the Sale Agreement amicably.

**11.2.** The court appropriate to settle possible disputes shall be the court with jurisdiction over the location of the registered office of ATT. However, ATT may, at its discretion, refer the case to any other court with material or territorial jurisdiction according to the Civil Code provisions, in particular to the District Court for Lublin-Zachód, Civil Division VI (e-Court).

**11.3.** Unless agreed otherwise, the entering into and performing the Agreements shall be regulated with Polish legal regulations.

**11.4.** General Conditions have been drawn up in three counterparts, in Polish, German and in English. In case of inconsistencies between the two versions which are impossible to remove, the contents of the Polish version shall prevail.