

General Terms and Conditions for the Supply and License of ATIS VoiceCollect® Recording Products

I. GENERAL

1. The legal relation between ATIS and the Purchaser in connection with the scope of deliveries and/or services (hereinafter referred to as „Supplies“) shall be determined only by these General Terms and Conditions, the latest ATIS offer and its Annexes. Terms and conditions of the Purchaser shall only apply if expressly accepted by ATIS in writing. Authoritative for the volume of Supplies shall only be written and corresponding declarations of both Parties.
2. ATIS herewith reserves any intellectual property rights and/or copyrights pertaining to its cost estimates, drawings and other documents (hereinafter referred to as „Documents“). The Documents shall not be made accessible to third parties without ATIS' prior consent and shall, upon request, be returned without undue delay to ATIS if the contract is not awarded to the Purchaser. Sentences 1 and 2 shall apply mutatis mutandis to documents of the Purchaser; these may, however, be made accessible to third parties to whom ATIS may rightfully transfer Supplies.
3. All ATIS quotations are without obligation and are valid for 1 month. Any order only becomes valid and binding once it is accepted and confirmed by ATIS in writing.
4. If reasonable for the Purchaser, partial Supplies shall be allowed.
5. The term "claims for damages" used in these General Terms and Conditions also include claims for useless expenses.

II. PRICES AND TERMS OF PAYMENT

1. Unless otherwise stated in the offer, all prices shall be EXW (as defined in INCOTERMS 2000) Bad Homburg, Germany. Value Added Tax, if applicable, shall be added to the quoted price at the rate applicable on the date of invoice.
2. ATIS reserves the right to execute Supplies in full or in part only against prepayment.
3. If ATIS shall be responsible for assembly or installation of the products at installation site, unless otherwise agreed, the Purchaser shall assume responsibility for all additional costs, such as, but not limited to, travel, accommodation and logistics costs, as well as daily allowances for ATIS employees.
4. All invoices are due and payable without deduction within a period of 30 days of invoice date, unless otherwise agreed. All bank charges arising from payments are the Purchaser's responsibility.
5. The Purchaser may off-set only those claims that are undisputed or against which no legal recourse is possible.

III. RETENTION OF TITLE

1. All products delivered by ATIS (hereinafter referred to as "Retained Goods") shall remain the property of ATIS until each and every claim ATIS has against the Purchaser in relation to the Supplies has been settled.
2. For the duration of the retention of title, the Purchaser may not pledge the Retained Goods or use them as collateral, and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.
3. a) If the Purchaser resells Retained Goods, it shall hereby be deemed to have assigned by way of security to ATIS its future claims from such resale against its customers, including any ancillary rights and outstanding balance claims, without any subsequent special declarations being required for this. If Retained Goods are resold along with other items, without a separate purchase price for such Retained Goods having been agreed, then the Purchaser shall hereby be deemed to have assigned to ATIS such part of the overall purchase price that corresponds to the price invoiced by ATIS for such Retained Goods with this part of the overall purchase price having priority over the remaining amount of its claim.
b) In the event of a justified interest being substantiated, the Purchaser shall provide ATIS with the information necessary for the assertion of its claims against the customer and hand over the required documents.
c) Until revocation, the Purchaser shall be authorized to collect the assigned claims arising from the resale. In the presence of an important reason, in particular in the event of default in payment, suspension of payments, opening of insolvency proceedings, protest of a bill of exchange or of comparable well-founded evidence suggesting the Purchaser's over-indebtedness or imminent illiquidity, ATIS shall be entitled to revoke the Purchaser's authorization for collection. In addition, ATIS may, after having given prior notice and set an appropriate deadline, disclose the assignment by way of security, dispose of the assigned claims or demand the disclosure of the assignment by way of security by the Purchaser to the customer.
4. a) The Purchaser shall be authorized to process the Retained Goods or commingle or conjoin these with other items. The processing, commingling or conjoining (hereinafter referred to as the "processing") shall be effected for ATIS. The Purchaser shall safeguard the new item for ATIS with the due care and diligence of a prudent businessman. The new item shall be classified under Retained Goods.
b) In the event of processing with other objects not belonging to ATIS, ATIS shall be entitled to co-ownership in the new item in the amount of the proportion of the value of the processed, commingled or conjoined (hereinafter referred to as

"processed") Retained Goods relative to the value of the other processed goods at the time of the processing. If the Purchaser acquires sole ownership of the new item, ATIS and the Purchaser agree that the Purchaser shall grant to ATIS co-ownership of the new item resulting from processing in the proportion of the value of the processed Retained Goods relative to the other processed goods at the time of the processing.

- c) In the event of the new item being sold, the Purchaser shall hereby be deemed to have assigned by way of security to ATIS its claims from such resale against its customer, including any ancillary rights, without any special declarations being required for this. The assignment shall, however, only apply to the amount of the sum that corresponds to the price invoiced by ATIS for such processed Retained Goods. The part of the claim assigned to ATIS must be satisfied with priority. With respect to the Purchaser's authorization for collection and to the preconditions for its revocation, item no. 3. c) shall apply accordingly.
- d) If the Purchaser conjoins the Retained Goods with real estate properties or movable items, it shall hereby be deemed to have additionally assigned by way of security to ATIS its claims, to which it is entitled as remuneration for the conjoining, including any ancillary rights, in the amount of the proportion of the value of the conjoined Retained Goods relative to the other conjoined goods at the time of the conjoining without any special declarations being required for this.
5. The Purchaser shall inform ATIS forthwith of any seizure or other act of intervention by third parties with regard to the Retained Goods.
6. Where the Purchaser fails to fulfil its duties within a reasonable time frame set by ATIS, including failure to make payments due, ATIS shall be entitled to annul the contract and take back the Retained Goods; the statutory provisions specifying that a time limit is not needed remain unaffected. The Purchaser is obliged for delivery. Unless expressly declared by ATIS, any withdrawal of the Retained Goods respectively the assertion of retention of title or the garnishment of the Retained Goods shall not be considered as withdraw from the contract,

IV. DELIVERY TIME FOR SUPPLIES; DELAY

1. Delivery times set for Supplies can only be upheld if all documents to be supplied by the Purchaser and necessary permissions are received in time and if the Purchaser meets the agreed payment and other obligations. If these conditions are not met as agreed, the delivery times set shall be extended accordingly; this shall not apply where ATIS is responsible for the delay.
2. If a delay is attributable to force majeure such as, but not limited to mobilization, war, rebellion or similar events, e.g. strike or lockout, the delivery time shall be extended accordingly.
3. If shipment is delayed at the Purchaser's request by more than one month from the date of ready for shipment notification, the Purchaser may be charged, for each additional month or part thereof, storage costs of 0.5% of the price of the Supplies, but in no case more than an aggregate total of 5%. The parties hereto may agree that higher or, as the case may be, lower storage costs have been incurred.

V. TRANSFER OF RISK

1. The risk shall pass to the Purchaser in accordance with the applicable delivery terms as defined in INCOTERMS 2000.
2. Notwithstanding anything to the contrary in the applicable INCOTERMS 2000, risk shall pass to the Purchaser if shipping, delivery, the start or performance of assembly or installation, the trial run or operational usage is delayed for reasons for which the Purchaser is responsible or if the Purchaser has otherwise failed to accept the Supplies.

VI. SET-UP AND INSTALLATION

If applicable and unless otherwise agreed in writing, set-up/installation shall be subject to the following provisions:

1. The Purchaser shall provide at its own expense and in good time:
 - a) The equipment and materials necessary for set-up and commissioning;
 - b) All infrastructure, such as but not limited to the necessary floor space, electrical power supply, heating and lighting;
 - c) Suitable dry and lockable rooms of sufficient size adjacent to the installation site for the storage of parts, materials, tools, etc. and adequate working and break rooms for ATIS installation personnel, including sanitary facilities as are appropriate in the specific circumstances. Furthermore, the Purchaser shall take all necessary precautionary measures for the protection of ATIS' and its installation personnel's possessions/assets at the installation site, as it would for the protection of its own possessions/assets;
 - d) Protective clothing and protective devices needed due to conditions prevailing at the installation site.
2. Before the installation commences, the Purchaser shall provide any information required concerning the location of concealed electric power, gas and water lines or similar infrastructure.
3. Prior to set-up or installation, the materials and equipment necessary for the work to commence must be available at the set-up/installation site and any preparatory work (by the Purchaser) must have advanced to such a degree that set-up/installation can start as agreed and carried out without interruption.
4. If set-up, installation or commissioning is delayed due to circumstances for which ATIS is not responsible, the Purchaser shall bear reasonable additional costs incurred for waiting/idle time and travel/accommodation for ATIS installation personnel.
5. Unless otherwise agreed in writing, the Purchaser shall at weekly intervals inform ATIS on the hours worked by the installation personnel immediately confirm in writing if set-up, installation or commissioning has been completed.
6. If, after completion, ATIS requests formal acceptance of the Supplies, the Purchaser shall comply therewith within a period of one week. If the Purchaser fails to comply therewith, acceptance is deemed to have taken place. The Supplies are

also deemed accepted in the event they are put into operational use, after completion of an agreed test phase, if any.

VII. ACCEPTANCE OF SUPPLIES

The Purchaser is not entitled to refuse acceptance of Supplies due to minor defects.

VIII. WARRANTY

ATIS shall be liable for defects in quality („*Sachmängel*“, hereinafter referred to as „*Defect*“,) as follows:

1. All parts or services where a Defect becomes apparent within the limitation period shall, at the discretion of ATIS, be repaired, replaced or reperfomed again free of charge, provided that the cause of such Defect already existed at the time of transfer of risk to the Purchaser.
2. Claims on Defects are subject to a limitation period of 12 months. This provision shall not apply where longer periods are prescribed by law as well as in cases of injury of life, body or health, or where ATIS demonstrates intentional or gross negligence in failing to fulfil its obligations or fraudulently conceals a Defect. The legal provisions regarding suspension of expiration („*Ablaufhemmung*“), suspension („*Hemmung*“) and recommencement of limitation periods remain unaffected.
3. The Purchaser shall notify Defects to ATIS in writing and without undue delay.
4. In the event of notification of a Defect, the Purchaser may within reason withhold payment, taking into account the nature and severity of the Defect. The Purchaser, however, may only withhold payment if the claimed Defect is undisputed. In the event the Defect claims prove to be unjustified, a right of retention of the Purchaser does not exist, if claims on Defects are time-barred. ATIS is entitled to have any additional expenses incurred as a result to be reimbursed by Purchaser.
5. ATIS shall first be given the opportunity to supplement its performance and subsequently fulfil its obligations („*Nacherfüllung*“) within a reasonable period of time.
6. If supplementary efforts prove to be unsuccessful, the Purchaser shall be entitled to rescind from the contract or reduce the remuneration, irrespective of any claims for damages it may have according to Art. XI.
7. Claims on Defects shall be excluded in case of insignificant deviations from the agreed quality, natural wear and tear, damages arising after the transfer of risk, faulty or negligent handling by the Purchaser, excessive strain, unsuitable equipment, defective workmanship, inappropriate conditions at the installation site, external influences not assumed under the contract, or from non-reproducible software errors. Claims on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties without ATIS' prior written approval and the consequences thereof shall be likewise excluded.
8. Claims on expenses incurred in the course of supplementary performance („*Nacherfüllung*“), particularly costs relating to travel, transport, labour, and material, are excluded, if these expenses have been increased because the Supplies have been brought to another location than the Purchaser's branch office, unless doing so complies with the intended use of the Supplies.
9. Purchaser's right of recourse against ATIS pursuant to Sec. 478 German Civil Code („*BGB*“) is limited to cases where the Purchaser has not come to an agreement with its customers exceeding the scope of the statutory provisions governing claims on Defects. Moreover, No. 8 above shall apply mutatis mutandis to the scope of Purchaser's right of recourse against ATIS pursuant to Sec. 478 Para. 2 BGB.
10. Purchaser's claims for damages based on Defects are excluded. This shall not apply, in case of fraudulent concealment of Defects, breach of warranted properties („*Beschaffheitsgarantie*“), injury of life, body, health or freedom, and intentional or gross negligent breach of duty by ATIS. The preceding condition does not involve a reversal of burden of proof to be stacked against the Purchaser. Any other or exceeding claims on Defects of the Purchaser not governed by this Art. VIII are excluded.

IX. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT; DEFECTS OF TITLE

1. Unless otherwise agreed, ATIS shall provide the Supplies free from third parties' intellectual property rights and copyrights (hereinafter referred to as „*IPR*“) relating to the country of the place of destination. If a third party asserts a justified claim against the Purchaser based on an infringement of an IPR with respect to duly contractually used Supplies made by ATIS, ATIS shall be liable to the Purchaser within the time period stipulated in Art. VIII No. 2 as follows:
 - a) ATIS shall, at its own expense, with respect to the Supplies either acquire, the right to use the concerned IPR or modify or replace the Supplies in a way they will not longer infringe the IPR. If this would be unreasonable for ATIS, the Purchaser may withdraw from the contract or reduce the remuneration pursuant to the applicable statutory provisions.
 - b) ATIS' obligation to pay compensation shall be governed by Art. XI.
 - c) ATIS' obligations above shall only apply, if the Purchaser (i) immediately notifies ATIS in writing of any such claim asserted by a third party, (ii) does not admit an infringement and (iii) leaves any defence measures and settlement negotiations to the discretion of ATIS. If the Purchaser stops using the Supplies in order to reduce damages or for other good reason, he shall be obliged to inform the third party that this does not involve an acknowledgement of the alleged infringement.
2. Claims of the Purchaser shall be excluded if the Purchaser is responsible for an infringement of an IPR.

3. Claims of the Purchaser shall also be excluded if an infringement of an IPR is caused by specifications given by the Purchaser for purposes not foreseeable by ATIS or if the Supplies being modified by the Purchaser or being used together with products not provided by ATIS.
4. In addition, for claims of the Purchaser relating to an infringement of an IPR No. 1 a) above, Art. VIII Nos. 4, 5, and 9 shall apply mutatis mutandis.
5. For defects of title („*Rechtsmängel*“), Art. VIII shall apply mutatis mutandis.
6. Any other or exceeding claims of the Purchaser against ATIS or its agents not governed by this Art. IX and based on a defect of title, shall be excluded.

X. SOFTWARE AND SOFTWARE DOCUMENTATION LICENSE

1. Subject to payment of the agreed price, ATIS grants to the Purchaser the non-exclusive and not transferable license to use the software and the software documentation in connection with the operation of the delivered hardware. The license to use the software is subject to being installed and running on hardware sold or formally recommended by ATIS.
2. The Purchaser expressly acknowledges that software may contain license keys or security locks for the purpose of protection of ATIS' or its licensor's IPR in the software. Without payment of the applicable prices, the Purchaser shall not use those features of the software which are already contained in the software upon delivery but which have not yet been licensed to the Purchaser, even if such features are accessible to the Purchaser without license key.
3. The Purchaser shall be entitled to produce 1 (one) back-up copy of each software module, where the use of such back-up copy shall be limited to replacing the original software if the original software is found to be inoperable. The Purchaser shall keep records about the storage of such back-up copies and present such records to ATIS on demand.
4. All copyrights and other proprietary notices and legends placed on the software supplied by ATIS shall be maintained and reproduced by the Purchaser on any full or partial copies created in accordance with Art. X. 3.
5. The Purchaser shall (a) not reproduce, copy, or modify the software in whole or in part except as authorised by ATIS in writing or as permitted by the terms of this Art. X., (b) not attempt to decompile, reverse engineer, disassemble, reverse translate, or in any other manner decode the software; and (c) upon termination of the license for substantial breach of contract or upon receipt of replacement, modified, or updated software, forthwith return to ATIS, or with ATIS' consent destroy (i) any magnetic tape, disc, semiconductor device or other memory device or system containing elements or fragments of the ATIS software, and (ii) documentation or other material, including, but not limited to all printed material furnished by ATIS to the Purchaser pertaining to the software.
6. The software may contain freeware or shareware obtained by ATIS from a third party source. No license fee has been paid by ATIS for the inclusion of any such freeware or shareware, and no license fee is charged to the Purchaser for its use. The Purchaser acknowledges and agrees that ATIS provides no warranties and shall have no liability whatsoever in respect of Purchaser's possession and/or use of the freeware or shareware.
7. Certain programs of the software and/or the software documentation may be proprietary to third party licensors of ATIS who may be direct and intended third party beneficiaries of certain terms and conditions herein relating to the protection of such third party IPR. ATIS will make available to the Purchaser all conditions of use of third party software. The Purchaser acknowledges these conditions and agrees that those third party beneficiaries may enforce these conditions directly against the Purchaser.
8. All rights, title and interest in and to the software and software documentation, other than those expressly granted to the Purchaser herein, shall remain vested in ATIS or her third party licensors and nothing contained in this article shall transfer, or be deemed to transfer any rights in the software other than those rights specifically granted herein. All information and documents supplied by ATIS to the Purchaser may be used by the Purchaser only for the purposes of maintaining and operating the Products. No licence is granted to the Purchaser to copy or use information or documents so supplied in order to make or have made spare parts for the equipment.
9. Software shall exclusively be provided in machine-readable format (object code). Source codes will not be supplied.

XI. IMPOSSIBILITY OF PERFORMANCE; ADAPTATION OF CONTRACT

1. If the Supplies are impossible to be carried out, the Purchaser shall be entitled to claim damages, unless ATIS is not responsible for the impossibility. The Purchaser's claim for damages shall, however, be limited to an amount of 10 % of the value of the part of the Supplies which, owing to the impossibility, cannot put into appropriate operation. This limitation shall not apply in the case of liability based on intent, gross negligence or injury of life, body, health or freedom. The Purchaser's right to withdraw from the contract shall remain unaffected.
2. If unforeseeable events within the meaning of Art. IV No. 2 above substantially change the commercial relevance or the content of the Supplies or considerably affect ATIS' business, the contract shall be adapted reasonably taking into account the principles of good faith. If this is economically not justifiable, ATIS shall have the right to withdraw from the contract. If ATIS intends to withdraw from the contract, ATIS shall notify the Purchaser thereof without undue delay after taking into account the consequences; this shall also apply if ATIS and the Purchaser have agreed to an extension of the delivery period previously.

XII. LIABILITY, CLAIMS FOR DAMAGES

1. Any claims for damages of the Purchaser, based on whatever legal reason, including infringement of duties arising in connection with the contract or tort, shall be excluded.
2. The condition above shall not apply in the case of mandatory liability, e.g. based on the German Product Liability Act („*Produkthaftungsgesetz*“), in the case of

intent, gross negligence, injury of life, body or health, or breach of essential contractual obligations. However, claims for damages arising from breach of essential contractual obligations shall be limited to damages which are foreseeable and typical for this kind of contract, unless caused by intent or gross negligence or based on injury of life, body or health.

3. The Purchaser shall take all required and reasonable measures to prevent or limit damages attributable to the software. In particular, the Purchaser shall make regular back-up copies of all programs and data.

4. ATIS shall not be liable to nor indemnify the Customer for loss of contracts, business, data or interest, or for loss/reduction of revenues and or profits or any other indirect or consequential damages, irrespective of the cause of action or the legal theory upon which such claim is based.

5. Claims for damages of the Purchaser are time-barred according to the expiration of the limitation period pursuant to Art. VIII No. 2. The same applies for claims of the Purchaser in connection with measures to prevent damages (e.g. product recall). Claims for damages based on the German Product Liability Act are subject to the statutory limitation period.

XIII. ELECTRICAL AND ELECTRONIC EQUIPMENT ACT ("ElektroG")

If products are delivered to a Purchaser within the European Union, only the Purchaser shall be obliged, at its own costs, to dispose the Products after the end of use according to the legal requirements. In addition the Purchaser indemnifies and holds ATIS harmless from all claims arising out of or in connection with Sec. 10 Para. 2 German Electrical and Electronic Equipment Act, ("Elektrogesetz").

XIV. SEVERABILITY

The legal invalidity of one or more provisions of this contract shall in no way effect the validity of the remaining provisions. This shall not apply if it would be unreasonable for one of the parties to continue the contract.

XV. GOVERNING LAW, ARBITRATION

1. All disputes arising out of the contract shall be governed and settled in accordance with the substantive laws of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

2. All disputes which cannot be resolved by negotiation shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with the said Rules. Unless otherwise agreed between ATIS and the Purchaser the arbitration proceedings shall be conducted in the English language. The court of arbitration shall decide about the place of arbitration and on the apportionment of the costs of the arbitration proceedings.

XVI. MISCELLANEOUS

In case of doubts about the interpretation between the English and the German version of these General Terms and Conditions the English text shall prevail.