

General Terms of Trade for the Services of AVL Emission Test Systems GmbH

1. SCOPE OF VALIDITY; ACCEPTANCE; CONTRARY TERMS OF TRADE

- 1.1 These General Terms of Trade (GTT) for services apply to all contracts made between us, AVL Emission Test Systems GmbH, and the opposite party (referred to below as the "Service Provider").
- 1.2 When the Service Provider confirms our order, these purchasing terms are recognised by the Service Provider.
- 1.3 The Service Provider's contrary terms or conditions which deviate from these purchasing terms do not become a content of contract, even if we do not specifically protest against them. If the Service Provider does not agree to this, it must notify us of this circumstance without delay in writing.

Reference to the Service Provider's General Terms of Trade on some kind of form is hereby expressly contradicted.

2. OFFERS; ORDER

- 2.1 Unless specifically agreed otherwise, we do not pay for any preparation of offers, plans, cost estimates etc. by the Service Provider.
- 2.2 After receipt of every written order, the Service Provider must confirm or reject this order to us without delay, although at the latest within 3 days, or submit a modified offer to us. This 3-day deadline is referred to below as the "reaction time". Transmission using telecommunications by fax or e-Mail suffices to warrant the written form. Periods on a Saturday, Sunday or on an official public holiday at the Service Provider's headquarters are not counted in measuring the reaction time. If the Service Provider fails to confirm our order within the reaction time, we are entitled to revoke the order.
- 2.3 Our orders and changes to these are not valid unless issued/confirmed by us in writing.
- 2.4 Our written approval is required in advance to pass on our orders to third parties in full or in part. A violation of this provision entitles us to terminate the contract with immediate effect. Our further-going claims remain unaffected.
- 2.5 Our written approval in writing is required in advance to assign claims and/or to transfer the collection of claims against us to third parties.
- 2.6 If the Service Provider puts a moratorium on its payments or if insolvency proceedings are opened against its assets, we are entitled to terminate the contract, without prejudice to our other rights.

3. DATES OF SUPPLY AND PERFORMANCE; DELIVERIES

- 3.1 The dates of performance agreed in the contract – referred to below in short as "deadlines" – are binding and are regarded as the date of performance at the agreed destination.
- 3.2 If it looks likely that a deadline will be missed, the Service Provider must inform us of this without delay in writing (fax suffices).
- 3.3 In case of a default of performance for which the Service Provider is responsible, we reserve the right to pursue a contractual fine of 0.2% per work day of default, although to a maximum 5% of the overall volume of the order. We can still demand the contractual fine, even if we have not expressly reserved the right when accepting performance. Further-going claims on our part, in particular such involving claims to damages, remain unaffected.
- 3.4 Even if we accept a postponement of deadlines, we still reserve the legal and contractual claims which accrue to us from default.
- 3.5 In case of a default in performance for which the Service

Provider is responsible, we are entitled to withdraw from the contract immediately after setting a reasonable deadline (generally not longer than 14 calendar days).

- 3.6 If a fixed deadline has been agreed, the contract is rescinded when the deadline is missed, unless we demand the fulfilment of contract without delay, although at the latest within three days after the deadline has been missed.

4. CHANGES TO DELIVERIES AND SERVICES

- 4.1 We can demand changes to the agreed scope of performance at any time, in particular to the design, process and/or execution, insofar as such changes are not unreasonable for the Service Provider.

In case of such change requests, the Service Provider shall state the effects, particularly with regard to extra or lower costs, within a reasonable period in writing and arrange a reasonable agreement between the parties. The Service Provider is obliged to take all reasonable precautions to limit the extra costs to the extent that is absolutely necessary.

The Service Provider does not have a claim to the remuneration of added costs, unless such has been agreed with us in writing.

- 4.2 If the Service Provider wants to change the content and/or the scope of the agreed services, it must submit such change requests to us as early as possible (at least six months in advance as a rule) in writing. The change applied for is not admissible, unless we have specifically issued our written approval in advance.
- 4.3 Changes which the Service Provider must make due to changes in laws or standards do not require our approval, although we must be informed of such without delay, in advance, and in good time by the Service Provider.

5. QUALITY AND DOCUMENTATION

- 5.1 The Service Provider shall maintain a quality system conform to the requirements of ISO 9001 and perform quality controls according to the state-of-the-art and suitable in type and scope. It shall work towards ISO 16949 and VDA 6.4 and develop a zero-error philosophy, wherever possible.

The Service Provider shall comply with the ISO 26262 standard concerning the functional safety of systems with electronics and software. The Service Provider must also ensure IT security in accordance with the provisions of ISO 27001.

- 5.2 The complete maintenance, operating and service instructions shall be delivered to us, without a special stipulation and without added costs, in electronic form for devices, Instruments, plant parts or systems.
- 5.3 Reference is hereby made to the Service Provider that we are certified under ISO 14001, ISO 9001 and VDA 6.4. The QES documents to be observed by the Service Provider, including the current list of contents and substances ("AVL list of substances") which may not be used by AVL, or only in a limited manner, can be found on the Internet site www.avl.com under Company -> Quality, Environment and Security.

If the services owed by the Service Provider contain one or more of the substances named in the current AVL list of substances, the Service Provider must consult with the purchasing officer nominated by us and state the substances concerned.

- 5.4 Each change in the destination of performance requires our written approval in advance. This consent shall not be refused without good reason. Costs we incur due to non-compliance with this provision or otherwise due to a change of destination arranged by the Service Provider shall be borne by the Service Provider.

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6. PRICES AND PAYMENT

- 6.1 Unless a different agreement has been made in writing, the agreed prices are fixed and thus cannot be changed up to complete performance as per the order.
- 6.2 Unless agreed otherwise in writing, payments are made after performance conform to contract and receipt of a proper invoice able to be reviewed after 14 days at 2% discount or 30 calendar days net.

7. LIABILITY DUE TO DEFECTS

- 7.1 Unless agreed otherwise in writing, claims due to defects expire by limitation of time after 36 months.
- 7.2 During the duration of the legal warranty period, the Service Provider shall rectify defects without delay upon demand and at its own expense.
- 7.3 All costs associated with the rectification of defects (such as transport and the costs of disassembly and re-assembly) are borne by the Service Provider.
- 7.4 The expiry of justified claims from the rectification of defects under the limitation of time is put on hold for the period required to rectify the defect up to its successful rectification.
- 7.5 If the Service Provider fails to fulfil its obligation of rectifying defects within a reasonable deadline set by us, we are entitled to rectify the defect ourselves or arrange for this to be done by a third party at the Service Provider's expense. If this is not possible, we are entitled to acquire the item elsewhere.
- 7.6 That agreed under 7.5 applies accordingly to cases in which we justifiably refrain from setting a deadline, after weighing up the interests of both sides to prevent even greater losses, or if setting such a deadline is unreasonable for us. Further-going legal provisions remain unaffected.

8. RIGHTS TO DOCUMENTS; SECRECY

- 8.1 All the drawings, sketches, calculations, descriptions and the like – summarised below as “documents” – handed over to the Service Provider in order to compile offers or to execute orders remain our property. They must be returned to us upon submission of the offer or upon execution of the order. Documents may not be altered or duplicated or made accessible to third parties without our written permission in advance.

If the Service Provider makes alterations to documents (after obtaining our prior permission in accordance with the foregoing paragraph), the Service Provider may only use the altered documents to compile offers or to execute orders. For the rest, the Service Provider transfers to us the exclusive right of use, not limited by time, space or content, to the altered documents. The claim to return in accordance with the foregoing paragraph also extends to the altered documents.

- 8.2 The Service Provider is obliged to treat in the strictest confidence all of AVL's business and operating secrets which it becomes aware of in the collaboration with us (“secret information”). Secret information may not be duplicated or be made accessible to third parties, nor be used for purposes other than to process the contract without our written permission. In particular, the Service Provider is forbidden to remove documents of any kind (e.g. data, documentation, programs) from our company premises without our written permission. In case of the (partial) issue of subcontracts to fulfil its contractual duties to subcontractors approved by us, the Service Provider must impose the relevant obligations of maintaining secrecy on its subcontractors. It shall likewise oblige its employees to maintain secrecy (including the ban on use).
- 8.3 In particular, all drawings and calculations provided to com-

pile offers or to execute orders, all of AVL's own or customer-related business, technical and personal data, all of AVL's own expertise or technical know-how provided by the customer (designs, specifications, plans, software, etc.), the order and the resulting work, outcomes, data and knowledge is regarded as secret information.

- 8.4 The Service Provider is obliged to do everything possible in the scope of the state-of-the-art to ensure that all secret information is effectively protected against unauthorised third party interference immediately it is received. In particular, it must ensure that it is protected against theft, loss, manipulation, damage or any kind of duplication. If the Service Provider suspects that unauthorised third parties could have obtained knowledge of the secret information, it must inform us without delay in writing and, in agreement with us, introduce all the steps necessary to investigate the circumstances of the case and to prevent possible attacks in future.
- 8.5 If the Service Provider stores or processes the secret information in its data processing systems, it shall ensure that unauthorised third parties cannot access these data.
- 8.6 After executing the order, the Service Provider is obliged to return all physical and all data-based secret information to us. Furthermore, the Service Provider shall remove all secret information from its data processing systems and, at our discretion, return all duplications of secret information to us or destroy the duplications in such a manner that a reconstruction is impossible. The Service Provider shall demonstrate complete return or destruction at our request and confirm the same in writing.
- 8.7 The Service Provider is obliged to comply with all provisions of data protection in their current version and shall observe the same. The Service Provider shall instruct all its staff and subcontractors in the pertinent provisions of data protection and oblige them to maintain data secrecy.
- 8.8 Violation of the provisions in item 9 entitle us to terminate the contract with immediate effect. Further-going claims on our part remain unaffected.

9. RESULTS OF WORK AND PROTECTED RIGHTS

- 9.1 The results of work in the sense of these provisions consist of all knowledge acquired in the performance of the single contract, including all inventions, regardless of whether these are able to be protected and regardless of whether these are recorded, stored or embodied as drawings, descriptions, trial arrangements, models, devices or systems (referred to below as the “results of work”). All the results of work which arise, whether or not they are able to be protected, must be documented by the party by whom they arise.
- 9.2 All results of work derived by the Service Provider become our exclusive, unlimited property immediately they arise. They must be notified and made available to us without delay. The same applies to inventions or shares in inventions made by the Service Provider. The Service Provider assigns all rights to such inventions or shares in inventions to us without limitation. If we waive the rights to inventions or shares in inventions in full or in part, the Service provider is not entitled to pursue the rights to such inventions or shares in inventions (e.g. own use, applying for protected rights, issuing licenses to third parties etc.). Inventions or shares in inventions are settled by the remuneration agreed in section 6 of these GTT.
- 9.3 With regard to the patents accruing to the Service Provider in the context of the order, it grants us the long-term right of use free-of-charge and without limitation.
- 9.4 The Service Provider is obliged to provide performance free of third party protected rights. The Service Provider is liable for ensuring that third party protected rights are not violated during the execution of the contract. With regard to the justifi-

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fied claims of third parties, it releases us from violations of protected rights.

10. REGULATIONS ON AENTG, MILOG

The Service Provider assures that it will fulfil all obligations under the current Posted Worker Act (AEntG). In particular, the Service Provider assures that it will at least pay the minimum wages under the Minimum Wage Act (MiLoG) to the workers deployed by it in the business relationship with us and that it will not deduct further contributions, apart from the contributions regulated by law. The Service Provider shall release us at the first written request from all claims pursued against us by third parties under the regulations of non-payment of the minimum remuneration (§ 14 AEntG) and/or the minimum wage (§ 13 MiLoG).

11. COMPLIANCE AND SOCIAL RESPONSIBILITY

11.1 We support and observe the protection of internationally recognised human rights and we make an effort to conform to all prevailing laws and regulations. We have implemented a Code of Conduct for our staff, which is based on the principles of integrity, honesty and fairness. We also expect our service providers and their subcontractors to comply with the provisions protecting internationally recognised human rights, all prevailing laws and regulations and the principles on which these are based.

Against this background, the Service Provider must comply with the laws of the applicable legislation within the scope of this contractual relationship. In particular, these include the following:

- Observance of basic human rights
- Ban on the work of children and enforced labour
- Compliance with the minimum wages and social benefits prescribed by law or common in industry
- Compliance with the working hours prescribed by law or by prevailing industrial standards or other norms
- Upholding the prevailing laws and regulations on the freedom of association and the right of collective bargaining
- Ban on discrimination for reasons of race or because of ethnic origin, gender, religion or beliefs, an invalidity, age or sexual identity
- Compliance with the requirements on working safety and the protection of health
- Responsibility for the environment and compliance with prevailing environmental legislation
- Compliance with anti-corruption regulations and the ban on participating, either actively or passively, directly or indirectly, in any kind of form of bribery and graft or any inadmissible granting of favours
- Compliance with the prevailing laws governing competition and cartels, particularly the ban on agreements restricting competition

11.2 The Service Provider must take its own, reasonable measures to comply with the laws, regulations and principles listed above and shall demonstrate this without delay at the request of AVL. The Service Provider shall furthermore make every effort to ensure that its subcontractors are likewise subject to such obligations.

12. CONCLUDING PROVISIONS

12.1 Changes and supplements to these provisions require the written form. The same applies to the waiver of this clause of written form itself.

12.2 Should one or more provisions in these terms of purchase and/or any other contracts concluded between the parties be or become unworkable, or if it transpires that they contain a loophole, this shall not affect the validity of the remaining provisions. In such a case, the unworkable provisions shall be replaced or the loophole closed by reasonable, admissible regulations which the parties would have wished or which they would have chosen in the sense and purpose of the provisions, if they had considered the unworkability or the loophole in the first place.

12.3 The place of fulfilment for work and deliveries is the destination stated by us. The place of fulfilment for payments is our business headquarters.

12.4 The exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship is Neuss. However, we are entitled to instigate action at the headquarters of the Service Provider.

12.5 The parties agree that German law shall prevail exclusively over all legal affairs under this contractual relationship, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and other international reference norms.