

## TERMS AND CONDITIONS ATUM 3D

### Article 1. – DEFINITIONS

1.1 ATUM 3D B.V. as well as associated entities and group corporations, as defined in article 2:24 a through c in the Dutch Civil Code, including at least Atum Industrial B.V. and Atum Holding B.V., make use of these terms and conditions and shall be defined hereafter as “**ATUM 3D**”.

1.2 “**Other Party**” is defined as any (legal) entity ATUM 3D addresses quotations/offers to, as well as those addressing quotations/offers to ATUM 3D and those awarding ATUM 3D with an order, or those with whom ATUM 3D enters an agreement and subsequently those with whom ATUM 3D has any legal relationship, also including its representative(s), authorized person(s), assignee(s) or heir(s).

1.3 “**Product(s)**” is defined as all products supplied to the Other Party, including all work and services ATUM 3D performs for the Other Party.

1.4 “**Confidential Information**” is defined as all data, information, plans, specifications, drawings, documents and knowledge disclosed to the Other Party in relation to entering the agreement or executing of the agreement. Furthermore, confidential information includes all data and information from third parties the Other Party has received or learned in relation to the agreement.

### Article 2. – APPLICABILITY

2.1 These terms and conditions apply to all quotations/offers, all offers and/or quotations by the Other Party accepted by ATUM 3D, agreements, all agreements following from or related to agreements as well as all legal acts, deliveries (of Products) and work performed by ATUM 3D, as well as future legal relationships entered by ATUM 3D.

2.2 The applicability of any (purchasing) terms and conditions used by the Other Party is explicitly declined.

2.3 Changes or additions to these terms and conditions are only binding for ATUM 3D if these have been agreed to by ATUM 3D in writing.

2.4 If one or more conditions in these terms and conditions would be (partially) void or (partially) annulled, the other conditions in these terms and conditions, or the agreements entered by the Other Party and ATUM 3D to which these terms and conditions apply, remain in full force and effect.

### Article 3. – OFFER

3.1 All offers and quotations are free of obligation, unless these include a term for acceptance, in which case the offer is expired after this final deadline.

3.2 Any changes and/or commitments made by ATUM 3D after the offer, whether verbally or in writing, is

considered as a new offer, invalidating the previous offer.

3.3 All offers and quotations are based on the execution of the agreement by ATUM 3D under normal circumstances, based on the information available to ATUM 3D and during regular office hours (09:00-17:00 CET), unless explicitly agreed otherwise in writing.

### Article 4. – ESTABLISHMENT

4.1 If the ATUM 3D offer is free of obligation, the agreement is established when ATUM 3D receives confirmation of acceptance of the offer by the Other Party in writing, or the moment ATUM 3D has initiated execution of the order, or preparations have been made for executing the order.

4.2 If the ATUM 3D offer includes a term of acceptance, the agreement is established when ATUM 3D receives confirmation of acceptance of the offer by the Other Party prior to the deadline set by ATUM 3D.

4.3 If an acceptance by the Other Party differs from the ATUM 3D offer, this is considered as a new offer from the Other Party to ATUM 3D as well as a rejection of the full ATUM 3D offer, even if these are minor changes to secondary items.

4.4 Any orders, (additional) agreements, changes and/or commitments, whether verbally or in writing, by ATUM 3D staff, representatives, sales or other agents after the order are non-binding, unless explicitly confirmed by ATUM 3D to the Other Party in writing or when ATUM 3D has initiated execution or preparations have been made for executing.

4.5 ATUM 3D reserves the right to involve third parties in order to ensure proper execution of the agreement, the cost of which shall be charged to the Other Party in accordance with the ATUM 3D quotation. If and when possible, ATUM 3D shall inform the Other Party in advance.

### Article 5. – MODIFICATIONS

5.1 In case circumstances arise during execution of the agreement which (threaten to) impair proper execution, the actions necessary for uninterrupted progress are to be taken by mutual agreement.

5.2 In case of a modification of the agreement, which includes delivery of a new/changed version of the Product, implicates expansion of ATUM 3D activities, the resulting costs are only borne by ATUM 3D if the expansion is due to circumstances known to ATUM 3D, or should have reasonably been known to ATUM 3D, at the time the agreement was established.

### Article 6. – REPLACEMENT ITEMS

6.1 In case compelling circumstances require ATUM 3D to supply items which deviate from the items in the agreement,

ATUM 3D has the right to do so, as long as the changes do not impose a deterioration of the quality of the items to be supplied.

6.2 Supplying alternative, yet at least equal items does not give the Other Party the right to claim any compensation and/or to demand cancellation of the agreement or to suspend any of her obligations towards ATUM 3D.

### Article 7. – PRICING

7.1 Pricing communicated by ATUM 3D are net prices excluding sales tax, delivery fees, service charges and other governmental charges and/or charges by third parties related to the sales and/or delivery and/or execution of the agreement; pricing is based on delivery Ex Works from the Netherlands (latest version of Incoterms), unless parties have agreed otherwise in writing.

7.2 Pricing communicated by ATUM 3D is in Euro or in another currency agreed to in writing by ATUM 3D. Potential exchange rate fluctuations are at the risk and borne by the Other Party, unless agreed otherwise between parties in writing.

7.3 Pricing communicated by ATUM 3D is based on the current cost factors, such as exchange rates, purchasing prices, wages, labor costs, social security and governmental charges, shipping costs, insurance premiums and other costs, and on execution of the agreement under normal circumstances.

7.4 ATUM 3D reserves the right to charge a proportional price increase to the Other Party when an increase occurs in one or more price determining factors, such as wages, charges, premiums, materials and exchange rates, after establishing the agreement. This also applies if aforementioned changes in the price determining factors are the result of circumstances that could be foreseen when establishing the agreement.

7.5 In case the application of article 7.4 results in a price increase of 10% or more and the price increase is not due to the law, the Other Party has the right to cancel the agreement by registered letter, within one (1) week after ATUM 3D has notified the Other Party of increasing the agreed price. This right expires if the Other Party has not cancelled the agreement within one (1) week in aforementioned manner.

7.6 If circumstances arise that are attributable to the Other Party and which result in costs for ATUM 3D, the Other Party is obliged to remunerate these costs to ATUM 3D.

7.7 Unless expressly agreed otherwise in writing, delivery fees, service charges, costs for instruction and training of staff and operators, as well as costs for loading and unloading, shipping/transport or storage of any materials provided by the Other Party and costs for any materials

not included in the regular ATUM 3D equipment, are never included in ATUM 3D pricing.

#### **Article 8. – DELIVERY**

8.1 Specified delivery times and/or specified delivery dates are never strict deadlines, unless agreed otherwise in writing. The mere expiry of the delivery time and/or delivery date shall not constitute a breach of contract. Exceeding the delivery time and/or delivery date shall not give the Other Party any right to compensation.

8.2 Specified delivery times and/or completion dates are based on the current operating conditions at the time of establishing the agreement, the information known to ATUM 3D and the timely delivery of the materials and/or parts ordered by ATUM 3D for execution of the agreement.

8.3 Unless agreed otherwise in writing, delivery takes place Ex Works from the Netherlands (latest version of Incoterms) and at times specified by ATUM 3D, which shall be communicated to the Other Party timely and, if possible, in mutual agreement. The risk of the items to be supplied transfers to the Other Party at the moment of delivery ex warehouse, even if the ownership of the item has not yet been transferred by ATUM 3D. The Other Party is obliged to receive the ATUM 3D delivery at the designated time, failing which results in all deriving costs (including storage, shipping and handling costs) being borne by the Other Party, in accordance with ATUM 3D and/or locally applicable tariffs.

8.4 ATUM 3D has the right to supply items in partial deliveries and shall always be entitled to invoice for such partial deliveries separately. ATUM 3D shall specify delivery times for each partial delivery. The conditions in this article 8 are equally applicable to partial deliveries.

8.5 In the event of a conflict between these terms and conditions and the Incoterms, the terms and conditions shall prevail.

#### **Article 9. – TRANSPORT**

9.1 Unless agreed otherwise in writing, transport/shipping takes place at the risk and expense of the Other Party. The means of transportation/shipping as well as the packaging of the Products is determined by ATUM 3D.

#### **Article 10. – PAYMENT**

10.1 Unless agreed otherwise in writing, payment by the Other Party must take place within 30 days after receiving the invoice. This term is a strict deadline; on exceeding it, the Other Party is in default. Settlement with claims the Other Party allegedly has on ATUM 3D, is ruled out.

10.2 On late payment, a contractual interest is payable, equal to an interest

rate of 1,5% per month, or the legal commercial interest if that's higher, whereby a part of the month is charged as a full month, starting the first day after the payment due date.

10.3 On late payment, the Other Party owes collection fees. The extrajudicial collection fees are herewith set at 15% of the payable amount with a minimum of EUR 350,--.

10.4 Payments by the Other Party always serve to settle all interest and costs, and subsequently to settle receivables arising from the agreement which have been due the longest period of time, even if the Other Party states the payment relates to another receivable.

10.5 The Other Party has no right to refuse or suspend the fulfillment of its payment obligation due to alleged defects in the Product and any other reason.

10.6 In case of liquidation, insolvency, application for bankruptcy or suspension of payment of the Other Party, receivables from ATUM 3D, on any account, are immediately payable by the Other Party.

10.7 At any time, ATUM 3D has the right to request assurance from the Other Party, in terms of a bank guarantee adequate for ATUM 3D, for the fulfillment of all of its obligations from the agreement. If the Other Party does not comply with the request by ATUM 3D to provide assurance, ATUM 3D has the right to cancel the agreement or suspend its obligations.

#### **Article 11. – SUSPENSION AND RETENTION**

11.1 ATUM 3D is authorized to suspend her efforts (including also future partial deliveries) if the Other Party fails to comply with one or more of its obligations arising from the agreement, or if ATUM 3D becomes aware of circumstances which give her good reason to fear the Other Party will not fulfill its obligations under the agreement, barring aberrant mandatory provisions.

11.2 If the Other Party – despite a written notice with a payment term of at least 7 days – does not comply with her obligations, in part or in full, ATUM 3D can execute the right of retention on all items and monies of the Other Party. Furthermore, ATUM 3D can sell and supply aforementioned items to a third Other Party and deduct the proceeds from the still outstanding invoices. In this case, the Other Party can no longer invoke the right of delivery.

#### **Article 12. – WARRANTY**

12.1 ATUM 3D warrants the reliability of supplied Products and materials used for a period of 12 months after delivery ( Initial Warranty Period), as long as ATUM 3D was unrestricted in the choice of these materials. On payment of costs the

warranty can be extended with 12 months (Extended Warranty Period), following on the Initial Warranty Period.

12.2 In case defects occur to the Product, the warranty in sub 12.1 does not apply if these are the result of regular wear, improper operation or injudicious treatment, misuse, usage contrary to ATUM 3D instructions, negligence, accident, failure to comply with maintenance requirements and/or regular maintenance or when the Product is repaired or altered without previous written consent from ATUM 3D, or in case of use for other than the normal purposes.

12.3 The obligations of ATUM 3D arising from the warranty as granted in article 12.1 do not exceed beyond repairing or replacing a Product or its parts free of charge or credit a proportional part of the invoice, such to be determined by ATUM 3D and within a term considered reasonable by ATUM 3D. The Product or part that needs repairing or replacement has to be sent, postage paid, to ATUM 3D or a third Other Party designated by ATUM 3D. Uninstalling and installing as well as any travel and accommodation expenses shall be borne by the Other Party. Shipping costs in relation to the warranty claim shall be borne by the Other Party.

12.4 The Other Party is obliged to allow ATUM 3D, upon its request, to have an expert assigned by ATUM 3D perform an investigation following the claim for warranty, failing which voids the right for warranty. The verdict of this expert shall be binding for both parties. The costs of the above expertise shall be borne by the Other Party if their claim for warranty proves to be unfounded. If the claim for warranty is justly, the costs of expertise shall be borne by ATUM 3D.

12.5 The Other Party can only appeal to the warranty contained in this article if the Other Party can submit a valid proof of purchase to the effect that the Products were purchased at ATUM 3D or its authorized business partners and the Other Party has fulfilled all obligations towards ATUM 3D and its authorized business partners.

#### **Article 13. – RESERVATION OF OWNERSHIP**

13.1 Products supplied and/or to be supplied remain the property of ATUM 3D until the Other Party has paid ATUM 3D the receivables arising from the agreement, as well as the receivables due to shortcomings in complying with such an agreement, in full.

13.2 The Other Party is not permitted to dispose, pledge, or grant any right to a third Other Party on items supplied under reservation of ownership, except in the context of normal business operation. The Other Party is required to store items supplied under reservation of ownership

with the appropriate care and recognizable as property of ATUM 3D.

13.3 If the Other Party does not meet its payment obligations towards ATUM 3D or if ATUM 3D has good reason to fear the Other Party will not fulfill its obligations, ATUM 3D has the right to take back the items supplied under reservation of ownership. The Other Party is required to comply, failing which obligates the Other Party to an instantly to ATUM 3D payable penalty of 50% of the payment due.

13.4 The Other Party is required to insure or keep insured the items supplied under reservation of ownership against fire, explosion and water damage, as well as theft and to provide these insurances policies to ATUM 3D for perusal.

13.5 The reservation of ownership expires on payment by a third Other Party. Furthermore, the Other Party is required, at the first request from ATUM 3D, to: (a) pledge all claims from the Other Party on insurance companies with regard to the items supplied under reservation of ownership to ATUM 3D as set forth in article 3:239 or the Dutch Civil Code; (b) cooperate in other ways with reasonable measures ATUM 3D wishes to take in securing the ATUM 3D ownership rights with regard to items and which do not unreasonably interfere with the Other Party's normal course of business.

13.6 ATUM 3D is not obliged to indemnify the liability of the Other Party as holder of the items. The Other Party indemnifies ATUM 3D for claims third parties have on ATUM 3D and which can be related to the reservation of ownership.

#### **Article 14. – FORCE MAJEURE**

14.1 In case force majeure delays or prevents the execution of the agreement, ATUM 3D is authorized to suspend or cancel the agreement in writing, without entitling the Other Party to any compensation.

14.2 In case force majeure delays or prevents the execution of the agreement, the Other Party can cancel the agreement in writing when the force majeure has persisted longer than six (6) months.

14.3 The term "force majeure" shall be understood to mean any circumstance, both foreseen and unforeseen, as a result of which the Other Party can no longer reasonably require performance of the agreement. Circumstances that lead to force majeure certainly include: loss, damage en/or delay during and by transport of both the Product and parts of the Product, delay in the delivery of parts or semi-finished products of the Product to ATUM 3D, extreme absenteeism and wildcat strikes of the personnel, import and export restrictions, actions/measures at customs, including (temporary) closure of certain geographic areas, fire and other severe disruptions at ATUM 3D or its and national disasters. In addition, ATUM 3D may always rely upon force majeure in

the case of unsuitability of products and/or persons used by ATUM 3D to perform the agreement.

#### **Article 15. – LIABILITY**

15.1 Unabated article 12 of these terms and conditions, ATUM 3D shall be liable only for direct damage resulting from an intentional act or wilful recklessness – proven by the Other Party – on the part of ATUM 3D and/or its managerial staff forming part of the board of directors or management, during the fulfilment of the obligations arising from the agreement concluded between ATUM 3D and the Other Party.

15.2 In case ATUM 3D, would be liable for any damages, these are limited every time to direct damage to goods or persons and never expands to potential business damages or other consequential damages, including loss of income. The aforementioned direct damages are limited to: (a) reasonable costs incurred by the Other Party to have the performance by ATUM 3D match the agreement. These damages are however not compensated if the Other Party has cancelled the agreement; (b) reasonable costs incurred to determine the cause and extent of the damage, provided that the determination relates to direct damages as understood in these terms; (c) reasonable costs incurred to prevent or limit damage, provided the Other Party proves these costs have led to limitation of direct damages as understood in these terms and conditions.

15.3 In case ATUM 3D would be liable for damages, the liability of ATUM 3D shall be limited to the amount paid out under ATUM 3D's liability insurance policy in the event concerned (with a series of connected events counting as one event). If, for whatever reason, no amount is paid under the policy concerned the liability of ATUM 3D shall in any case be limited to an amount equal to the price (exclusive of VAT) stipulated for the part of the agreement the failure relates to, up to an absolute maximum of EUR 17.500.-- (seventeen thousand five hundred Euro).

15.4 The provisions in article 15.2 and 15.3 only apply as far as the liability of ATUM 3D following the law or agreement (including the provisions in these terms and conditions) has not yet been limited further than would follow from the mere application of aforementioned articles.

#### **Article 16. – INDEMNIFICATION**

16.1 The Other Party indemnifies ATUM 3D for any damages suffered by a third Other Party as a result of the use of Products which were supplied to the Other Party by ATUM 3D. If ATUM 3D should nonetheless be held liable, the provisions in the previous article shall be fully applicable. ATUM 3D shall then have a right of recourse against the Other Party

for the entire amount paid by it in connection with compensation and costs.

#### **Article 17. – COMPLAINTS**

17.1 The Other Party is obliged to inspect the Product on receipt and determine if it is in good condition, or the work has been performed in accordance with the agreement.

17.2 Potential complaints, both with regards to the item supplied by ATUM 3D, work performed or invoiced amounts, must be submitted to ATUM 3D in writing within eight (8) days after receipt of the item, performing the work or date of the invoice, including an accurate statement of the facts to which the complaint relates.

17.3 If it is not reasonably possible to find the defect within the aforementioned term, the Other Party is obliged to submit the complaint to ATUM 3D immediately (after he finds or should have found the defect) in writing and adequately motivated.

17.4 Small deviations, or those common in the industry, and differences in quality, number, size or finishing, as well as differences in the performance of the work, cannot constitute grounds for complaints.

17.5 Complaints regarding a certain item or regarding a certain activity shall be without prejudice to the obligations of the Other Party regarding other Products or parts of the agreement.

17.6 In case ATUM 3D replaces parts of an item or in case ATUM 3D replaces the item entirely, ATUM 3D becomes the owner of the part or Product to be replaced.

17.7 Products subject to complaints can only be returned after written permission by ATUM 3D. If Products are returned without the prior written consent of ATUM 3D, their dispatch and storage after their return shall be at the expense and risk of the Other Party. The risk in returned Products shall continue to be borne by the Other Party until ATUM 3D has accepted the return and the returned Products in writing, to which acceptance ATUM 3D may attach conditions.

17.8 If the Other Party has submitted a complaint without complying with the foregoing provisions, he can no longer claim a defect in the Product, the work performed by ATUM 3D and/or the invoices sent by ATUM 3D. All claims to complain expire one (1) year after Product delivery.

#### **Article 18. – CANCELLATION**

18.1 If the Other Party does not, not timely or properly, comply with any (payment) obligation, arising from any agreement with ATUM 3D, despite summations stating a reasonable term to comply, and in a case of (an application for) suspension of payment, bankruptcy, guardianship order or liquidation of the

company of the Other Party, ATUM 3D has the right to cancel the agreement or parts thereof, without judicial intervention and without notice of default, by a single written statement. In that case all amounts owed by the Other Party to ATUM 3D shall be due and payable in full and immediately, without prior notice of default being required.

18.2 On cancellation, the Other Party is liable for the damages suffered by ATUM 3D, including, among others, interest, profits and transportation costs.

18.3 If the provision in article 18.1 occurs and the Other Party enjoys a benefit which he would not have had in case of proper compliance, ATUM 3D has the right to compensation of damages, consisting of the amount of this benefit.

#### **Article 19. – INTELLECTUAL OWNERSHIP**

19.1 All rights to intellectual or industrial property on all under the agreement developed or supplied Products, including among others software, inventions, drawings, pictures, models, calculations, analyses, designs, documentation, reports, quotations, as well as preparatory materials, lie exclusively with ATUM 3D or its licensors. The Other Party solely acquires use rights and powers which are granted in these terms or explicitly granted otherwise and furthermore shall not duplicate or copy Products, show and/or make available to third parties or use in any other way.

19.2 ATUM 3D guarantees that the Products developed or supplied by ATUM 3D to its best knowledge do not infringe rights on intellectual or industrial property of third parties and shall safeguard the Other Party against any claim on this subject, under the condition that the Other Party shall inform ATUM 3D immediately in writing about such a claim and leaves the handling of the case and reaching amicable solutions exclusively to ATUM 3D. The Other Party is obliged to offer ATUM 3D all the necessary support in the matter.

19.3 In case an irrevocable judicial ruling confirms a claim by a third Other Party with regard to infringement of rights on intellectual or industrial property to be valid, ATUM 3D has a choice to, at its own expense, (a) acquire such rights that allow the Other Party to continue using the Product supplied by ATUM 3D, (b) alter the Product in such a way it no longer infringes, or (c) cancel the agreement and refund the amount paid by the Other Party, minus a reasonable user fee. By performing in one of the stated ways, ATUM 3D shall have discharged its obligations fully and shall not be obliged to pay any further compensation

19.4 The Other Party guarantees ATUM 3D that materials made available to ATUM 3D by him, such as drawings, pictures, calculations and models, do not infringe the rights on intellectual or

industrial property of third parties and shall safeguard ATUM 3D against any claim by third parties on this subject.

19.5 This article remains in effect after termination or cancellation of the agreement.

#### **Article 20. – CONFIDENTIALITY**

20.1 The Other Party shall treat all Confidential Information from ATUM 3D as confidential and it shall not be disclosed to a third Party without the prior written consent from ATUM 3D.

20.2 The Other Party can only disclose Confidential Information to employees who reasonably have the necessity to learn the Confidential Information. These employees shall be bound by the Other Party to the same confidentiality as the obligations arising from this article 20.

20.3 The Other Party shall not use the Confidential Information for any other purpose than the purpose ATUM 3D has provided it for and shall not apply it in any other way.

20.4 This article shall not apply in case the Confidential Information is demonstrable in writing (a) already in the possession of the Other Party before the Other Party received the Confidential Information from ATUM 3D; (b) at the date of disclosure or later comes to the attention of the public, other than by disclosure by the Other Party receiving this Confidential Information; (c) is obtained by the disclosing Other Party from a third Party, without the disclosing Other Party having any influence on it; (d) must be disclosed pursuant to a court order.

20.5 Violation of one or more obligations arising from this article obligates the Other Party to an immediately payable penalty of EUR 15.000,- per violation and EUR 500,- for each day the breach continues. This penalty does not affect the right to full compensation in accordance with the law.

20.6 This article remains in effect after termination of the agreement.

#### **Article 21. – DISPUTES AND APPLICABLE LAW**

21.1 All agreements to which these terms and conditions apply in whole or in part, are only subject to Dutch law, with the exception of the international conflict of laws provision thereof.

21.2 Applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is ruled out.

21.3 All disputes or claims shall be submitted for resolution to the district court Rotterdam, unless prescribed as mandatory to the contrary. At all times ATUM 3D has the right to submit a dispute or claim for resolution to the Netherlands Arbitration Institute in accordance with the Institute's regulations.

21.4 In case of a (imminent) dispute, ATUM 3D has the right to perform (or have performed) an expertise at the Other Party with one or more experts.