

General terms and conditions for the use of vouchers and technical services of Atento Technologies Germany GmbH

1. Contracting party, subject of the contract

1.1. Atento Technologies Germany GmbH (“Atento”), Rheinsberger Straße 76/77, 10115 Berlin, distributes in its own name vouchers from companies that provide goods and/or services (“providers”). Sales to consumers are via its own or third-party websites. These T&Cs also apply to the use of provider vouchers by Atento. The provider undertakes to supply Atento with the volume of vouchers specified in each order for the duration of the contract.

1.2. In addition, Atento offers the provider a technical service that enables the provider to issue and redeem digital or physical vouchers (“Atento Voucher System”). The provider engages Atento to produce the digital and/or physical vouchers on request.

2. Voucher specification and warranties by the provider

2.1. The provider warrants that the provider’s vouchers only grant the right to receive goods and/or services from the provider. They may not be redeemed with any third-party individuals. They do not constitute e-money.

2.2. The provider warrants that all services rendered in exchange for its voucher are provided correctly in accordance with the applicable legal requirements.

2.3. The provider warrants that its vouchers may be redeemed without restrictions for its entire product range, unless any restrictions are notified beforehand, and that a consumer may redeem several vouchers with each purchase.

2.4. The provider warrants that the vouchers are single-purpose vouchers and that it notifies Atento correctly of the value added tax.

2.5. The provider warrants that the vouchers are valid for at least three years from the end of the year in which the voucher was delivered to Atento and may be redeemed with the provider for the duration of their validity. Shorter validities may apply to vouchers granting a right to purchase certain goods or for events on specific dates.

3. Voucher production, transfer, invalidation

3.1. The provider engages Atento to carry out the technical production of the vouchers it issues. These are produced by means of the Atento Voucher System. Production is on a just-in-time basis, when the vouchers are purchased by consumers.

3.2. The provider defines the face value and denominations of the vouchers.

3.3. The provider defines the design of the vouchers and sends Atento the necessary images, photos, graphics, logos and texts (“materials”) or appoints a third party to do so. The provider warrants that it holds the rights to the materials or has been authorised to use and transfer this right by the respective rightsholders. If this is not the case, the provider indemnifies Atento in full on first request against all claims by third parties.

3.4. If a provider does not provide materials, Atento will use a standard design with sample pictures, graphics or texts to produce the vouchers.

3.5. The provider assigns its rights to the digital vouchers produced in this way to Atento, so that it can transfer the vouchers in performance of the purchase contract.

3.6. The Atento Voucher System also provides the functions for validating and invalidating the vouchers. When a consumer redeems a voucher issued by the provider with the provider, the provider must first validate the voucher in the Atento system and then invalidate it by entering a code or scanning a QR code. The voucher is then deemed to have been redeemed. If the value of the voucher is not used up by the services the consumer receives from the provider, the provider only enters the value of the services provided. The difference remains on the voucher and can be redeemed at a later date.

4. Sale of vouchers by Atento

4.1. Atento sells the vouchers issued by the provider and assigned to Atento to end customers (consumers and companies) via Atento’s own website, but also via third-party websites or face-to-face retailers. Atento is not limited in its choice of sales channels and may sell the vouchers in both digital and physical form (print-out, card).

4.2. Atento may use the materials provided in accordance with clause 3.3 to advertise the vouchers. To this end, the provider grants Atento a non-exclusive, non-transferable licence to use the materials free of charge solely for the purpose of distribution.

5. Purchase price and fee

5.1. Atento is obliged to pay the purchase price for the vouchers received from the provider. The purchase price for a voucher is the face value of the voucher, less a direct net discount at a rate agreed between the provider and Atento (“discounted purchase price”). The discounted purchase price is payable immediately.

5.2. If the provider invalidates a voucher in the Atento Voucher System when it is redeemed by an end customer, the provider receives the difference between the discounted purchase price and the face value as an additional purchase price (“differential purchase price”). The differential purchase price is only payable after invalidation.

5.3. The purchase prices defined in clause 5.1 and 5.2 include all incidental costs (Delivery Duty Paid, Incoterms 2010) and are subject to German value added tax at the statutory rate.

5.4. A fee agreed between the provider and Atento is charged for the use of the Atento Voucher System and is calculated as a percentage of the face value of the respective

voucher (“Atento fee”). The Atento fee is payable on receipt of the invoice and is stated without the applicable statutory value added tax.

5.5. Atento is entitled to deduct the Atento fee from the discounted purchase price.

5.6. Atento sends the provider a regular accounting report and prepares a statement of account for the purchase prices (credit note).

5.7. The purchase prices and fees are as agreed when the provider registers or as otherwise agreed between Atento and the retailer.

6. Contractual term, termination

6.1. This contract is signed for an indefinite period. The provider and Atento can each terminate the contract ordinarily by giving one month’s notice to the end of the month.

6.2. The provider has an extraordinary termination right if the provider ceases trading and/or for other extraordinary reasons no longer considers itself capable of performing the services purchased with the vouchers.

6.3. Atento has an extraordinary termination right, if for example:

6.3.1 the provider registers using false information;

6.3.2. the provider is repeatedly in breach of contractual obligations and does not stop the breaches despite being asked to do so;

6.3.3. large numbers of customers post negative ratings for the provider, which are not obviously unfounded;

6.3.4. the provider repeatedly refuses to accept vouchers from end customers without good reason;

6.3.5. the provider ceases trading or is unable to perform the services purchased with the vouchers for other reasons.

6.4. Notice of termination must be in writing.

6.5. When this contract ends, the provider no longer has an obligation to supply Atento with vouchers. Atento no longer has an obligation to make the voucher system available to the provider for the production of vouchers. However, after this contract comes to an end, the vouchers remain valid until their expiry date.

7. Guarantee / Liability

7.1. Atento is fully liable to you for deliberate acts and gross negligence. For other negligent acts, Atento is only liable for personal injury, damages for which Atento has strict liability (particularly under the German Product Liability Act), damages due to a breach of essential obligations that jeopardises the purpose of this contract or the performance of which is essential for the orderly execution of this contract and on which the other contracting party may normally rely (“cardinal obligations”).

7.2. In the event of a breach of such cardinal obligations, liability for simple negligence by Atento is limited to damages that are typical for the contract and were foreseeable at the time the contract was signed.

7.3. The provider is only entitled to use the Atento Voucher System within the current state of the art. Atento restricts its services temporarily, if necessary, because of capacity limits, the security or integrity of the servers or to carry out technical activities, and the restrictions serve to improve or ensure the proper delivery of services (maintenance work). For this reason, Atento does not guarantee, either explicitly or implicitly, the availability of the Atento Voucher System, its functions or its freedom from defects.

8. Confidentiality, data protection

8.1. Atento and the provider undertake to treat confidentially all company and business secrets and other confidential matters that become known to them in the course of concluding and implementing this contract.

8.2. Atento and the provider are obliged only to process personal data in accordance with the applicable provisions of the General Data Protection Regulation (GDPR) and other relevant data protection legislation.

9. Concluding provisions

9.1. Additions or amendments to these General Terms and Conditions or the agreed prices will be offered to the provider in text form, e.g. by email to the address provided on registration, no later than four weeks before the proposed effective date. The provider may reject the amendments before they take effect. The amendments are deemed to have been accepted if the provider does not reject them before they take effect. If amendments are proposed to the provider, it may also terminate the contract without notice and without charges before the proposed effective date of the amendments.

9.2. If any provision of these General Terms and Conditions should be or become invalid, this does not affect the validity of the remaining provisions. The provider and Atento will without delay replace the invalid provisions with valid provisions that most closely approximate the intention of the invalid provision. The same applies in the case of omissions.

9.3. Business relations between Atento and the provider are governed by German law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

9.4. The sole place of jurisdiction for all legal disputes arising from or in connection with this contract is Berlin.