

General Terms and Conditions of Sale and Delivery

For the motor vehicle industry (as well as the trailer and body-building industry) of 1st January 1969 in the version of 5th June 2018.

I. Scope of application

1. The scope of application of these general terms and conditions of sale and delivery cover all bids, legal transactions and other performances of the seller. The seller submits bids solely on the basis of these general terms and conditions of sale and delivery. On conclusion of this contract between the buyer and seller, these general terms and conditions of sale and delivery are agreed to be an integral part of the contract. In the course of ongoing business relationships, these general terms and conditions of sale and delivery apply to future performances – in particular to future supplementary or follow-up orders – even if they are not explicitly agreed in each case. Deviating agreements must be rendered in writing to attain validity. The applicability of any (general) business terms and conditions of the buyer is hereby denied; they do not obligate the seller even if the seller does not deny their applicability again on entering into a contract.

2. All bids and cost estimates and all specifications in brochures, advertisements or on the website of the seller are given without engagement and are non-binding in nature. They are meant solely as requests to submit an offer for a contract to be concluded by the buyer. No guarantee is given for the correctness of cost estimates.

II. Prices

1. Prices from the seller are net prices (in euros) from the delivering factory/registered office of the seller without packaging, discount and without value added tax. The seller is entitled or obligated, as he reasonably sees fit, to adjust contractually agreed prices if changes of at least 10 % occur in external initial costs between the placement of the order and the delivery of the performance. Under this provision, the following changes in particular entitle or obligate the seller to adjust the price:

- (a) Changes in wage costs brought about by law, regulation or the conclusion of new collective agreements (increases under collective agreements);
- (b) Changes in the prices of materials;
- (c) Changes in other external initial costs or general expenses.

The seller is not entitled to a price increase if it is behind schedule at the time of delivery.

III. Payment conditions, reservation of title

1. One third of the price is due (as a down payment) when the contract is made and entered into; the remainder is due at the latest upon delivery. If no down payment is rendered, no contract comes into being and the seller is under no obligation to perform.

All payments must be rendered in cash or by bank transfer to the seller's business account, as the seller prefers, free of charges and without any deductions. Checks and bills of exchange are accepted only if specially agreed and only for the sake of payment, not in lieu of performance.

The buyer shall bear all incidental costs arising from this contract, such as shipping and packaging expenses, financing expenses, cost of putting a lien in the Land Registry against the purchase price owed, fees, interest and the like.

2. An offsetting of the buyer's receivables against the seller's receivables is precluded unless such receivables are established by the court or acknowledged by the seller. Further, the buyer is not entitled to withhold payments on the grounds of warranty claims or other claims not acknowledged by the seller or established by the court. The buyer's payments are first offset against repair costs, then against receivables for spare parts, then against interest and other incidental fees and only after all those are covered, against goods subject to retention of title.

3. In addition to the down payment as per Clause III.1. above, the seller is entitled to make the conclusion of the contract dependent on a reasonable advance payment and/or the furnishing of appropriate collateral suitable for covering the remaining sales price owed, in particular, if the buyer's ability or willingness to pay is in doubt.

If after the contract is entered into, circumstances become known that give rise to well-founded doubts about the buyer's ability or willingness to pay, the seller is entitled to demand its choice of another advance payment or corresponding collateral. If the customer fails to meet this demand, the seller is entitled to its choice of either withholding performances and continuing them only step-by-step in exchange for payment of the remaining sales price or withdrawing fully or partially from the contract without assuming any follow-up costs whatsoever.

4. If the buyer defaults on payment, the seller is entitled to withdraw from the contract with immediate effect; this provision also applies if the buyer violates contractual obligations and fails to cease/remedy this breach of contract after being reminded once in writing by the seller to do so (e-mail suffices) and after a grace period to do so has been set that is appropriate to the circumstances and/or fails to rectify the omission of or perform an action required under the contract. If the seller does not avail itself of this right of withdrawal, the interest on arrears set forth in law becomes due in the case of default (§ 456 Austrian Business Enterprise Code (UGB)). The seller's right to assert damages above and beyond that remains unaffected.

5. The object being purchased and its parts remain solely the seller's property (retention of title) until the buyer fully satisfies all its (payment) obligations connected to the given legal transaction, even if the individual parts are already paid for. As long as the retention of title is in force, the object being purchased is not allowed to be sold, given in pledge, transferred by way of security, leased out or otherwise relinquished without written consent is granted and at the seller's request, all compensation claims from the reselling, leasing, etc. of the object or purchase and the buyer already grants its consent now that the seller notify the buyer's contracting party of this assignment in this case.

If the buyer fails to satisfy its payment obligations in part or as a whole, if excess debt is outstanding or payment is suspended or if a petition to institute insolvency proceedings against the buyer's assets has been submitted or has been denied for lack of assets, or insolvency proceedings are pending, the seller is entitled but not obligated under the provisions of the

Insolvency Code (IO), especially § 11 IO, to fetch the object being purchased or to have it fetched and to assert immediately any further rights arising from the retention of title as well as compensation for any damages. Except in the case of § 11.2 IO, the buyer is obligated, during its regular business and operating hours, to tolerate the fetching of the object being purchased that is subject to retention of title.

6. The seller is entitled to keep the type-approval certificate (Typenschein) until such time as the buyer has fully met all its obligations connected with the given legal transaction.

7. If claims are asserted by third parties against the seller's retention of title, especially by way of pledging/writ of execution, the buyer must immediately point out its conditional buyer status to the third parties and the ownership of the seller. Further it must notify the seller thereof immediately by fax or e-mail and take all necessary steps at its own expense to ensure that the rights and legal remedies of the seller continue to be safeguarded, in particular as per § 37 Enforcement Regulation (EO).

8. While the retention of title is in force, the object being purchased must be insured by the buyer at the seller's request at its original price against all risks including fire. The transfer of the insurance policies must be restricted to the seller.

9. While the retention of title is in force, the buyer is obligated to keep the object being purchased in proper condition and to have any needed repairs, except in the case of emergency, carried out at the seller's repair workshops or in a workshop recognized by the seller.

10. Any used material arising from repairs and bodywork becomes the property of the seller without compensation and without requiring special notification of the buyer. If used material cannot be recycled or utilized by the seller but instead has to be disposed of in a professional and environmentally sound manner, the buyer must bear any costs incurred thereby or itself order the disposal to be carried out.

IV. Delivery

1. The seller's delivery deadlines are always non-binding.

2. The delivery periods do not begin until the agreed down payment is rendered in full and suitable collateral is furnished as per Clause III.3, second paragraph, first sentence.

3. If a change is agreed in the given order, the seller is entitled to adjust the delivery deadline unilaterally, provided due account is taken of the delay or acceleration arising from the change in the order. Further, the seller is entitled to adjust the price. Failing a deviating agreement, the new prices must be calculated on the basis of the prices in the contract and where possible, objectively derived from price components and quantitative and performance estimates of comparable items in the contract.

4. The seller is entitled to design and shape changes during the contract term if the buyer can be reasonably expected to accept them, in particular because they are minor and/or objectively justified.

5. The buyer is precluded from asserting claims due to non-performance or default unless the seller is to blame for having caused these circumstances willfully or by gross negligence.

V. Place of Performance, passing of risk

1. The seller's deliveries and services are performed:

a) Ex works:

Upon submitting notification of a readiness to ship the goods. The buyer must take over the object being purchased immediately after being notified of this readiness to ship.

b) If shipping is agreed:

Upon leaving the delivering factory.

2. The place of performance is the delivering factory in each case.

3. Upon this performance, risk and dangers pass to the buyer, also in the event of accidental destruction. If the delivering factory sets a pick-up deadline and the buyer exceeds that deadline, a fee can be charged for storage.

VI. Warranty and liability

1. Unless deviating provisions are provided below, the legal warranty and liability provisions apply.

Warranted characteristics as defined in § 922 (1) Civil Code are only characteristics expressly designated and individually warranted by the seller. Product descriptions, brochures and other general information, information from the seller (or a third manufacturer) etc. are not deemed warranted characteristics.

In the case of repair work, a warranty exists only for replaced parts and only in the scope of the warranty of the manufacturer or supplier of such parts. No warranty is granted for wearing (parts) and used vehicles.

The warranty period is set at one year from the handover. Unless otherwise agreed, the day following the performance as per Clause V.1 is deemed the handover reference date unless the buyer was legally or contractually entitled to deny acceptance. For new motor vehicles, a warranty exists only as stipulated in the provisions below and only for freedom from defects in keeping with the state of the art:

a) New single-track motor vehicles that have been driven up to 6,000 km at most;

b) New dual-track motor vehicles that have been driven up to 10,000 km at most;

c) New utility vehicles (trucks, busses and tractors) that have been driven up to 20,000 km at most.

2. The warranty period does not begin until the contract has been performed. The warranty becomes null and void under the circumstances below: if the buyer subsequently sells the purchased object; if the purchased object is changed by a third party or changed as a result of parts produced by others being installed in it; if the buyer does not follow the regulations on vehicle handling (operating instructions) (in particular if the total admissible weight, axle pressure, payloads of chassis carrying capacity are exceeded); if required inspections are not carried out.

3. The seller is not liable for parts he has not produced himself but is willing to assign to the buyer defect claims against the manufacturer to which the seller is entitled. The application of § 933b Civil Code is excluded.

4. The buyer must notify the seller in writing - immediately but at the latest 14 days after handover - of defects in the purchased object that the buyer detects or should have detected during testing in ordinary operations otherwise the claim is forfeited. The buyer must indicate to the seller the type and scope of the defect in writing (complaint of defect, § 377 Austrian Business Enterprise Code (UGB)); hidden defects must be reported in a written complaint of defect within the same period from their first occurrence. The application of § 924 Civil Code is excluded. The party taking over the object must prove that a defect exists at the time of the handover.

5. There is no claim to a rescission of sale or a lowering of the purchase price unless it is not possible to improve the condition of or substitute or replace the object and/or if doing so would require from the seller a disproportionately large effort. The seller is free to choose whether it satisfies a warranty obligation by means of improvement or substitution/replacement. The buyer must grant the time and opportunity needed for this improvement or replacement to a reasonable extent. If the buyer fails to do so or reduces this time or opportunity to an unreasonable extent, the seller is exempted from warranty. In all cases, only parts are replaced. The buyer must cover the wages and costs incurred for part installation and removal. If it turns out that a defect alleged by the buyer does not in fact exist, the seller is entitled to charge reasonable compensation for searching for and/or remedying the defect.

VII. Compensation for damage

1. Compensation claims are excluded in the case of slight negligence except for personal injuries and liability pursuant to the Product Liability Act.

The existence of culpability that is grounds for liability must be proven by the damaged party.

All damage claims become statute-barred within one year after expiration of the warranty period and must be asserted in writing in each case within six months of knowledge of the damage and damaging party, failing which they become null and void.

2. Other damage claims of the buyer of whatever kind are excluded (including consequential damage from defects and claims for lost profit) with the exception of gross negligence on the part of the seller.

3. Any liability on the part of the seller is limited in amount to 5 % of the net value of the order.

4. These limitations apply also to damage to objects the seller has taken over from the buyer to process and/or repair.

VIII. Saving clause, writing requirement

1. Should provisions of these general terms and conditions of delivery and sale be/become ineffective in part or as a whole, all other provisions of these general terms and conditions of delivery and sale shall remain effective. The ineffective provision shall be replaced by another one that resembles as closely as possible the content and purpose of the ineffective provision.
2. No oral agreements exist. Changes and amendments to the contract concluded between the buyer and seller must be rendered in writing to attain validity. This formal requirement can only be waived by means of a separate agreement, which for its part must be rendered in writing.

IX. Applicable law, legal venue

Austrian substantive law, except for its conflict-of-law rules pertaining to foreign law, shall apply exclusively to all orders, particularly those subject to these general terms and conditions of delivery and sale. If Austrian law provides for the application of special international provisions of substantive law also valid in Austria in cases pertaining to foreign countries, e.g. the received UN Convention on Contracts for the International Sale of Goods (CISG), these provisions are excluded and shall not apply. The court at the seller's registered office _____ with jurisdiction in the matter is agreed as legal venue for all disputes arising from or in connection with the order, also in the bill-of-exchange and check process.