

I. General Provisions

1. The following terms and conditions of supply and payment (henceforth „contractual partner“) in the version valid at the time of supply or service shall apply exclusively to our supplies and services within the framework of our business relationship with you (henceforth „conditions“). Deviating terms and conditions of business, in particular terms and conditions of procurement, shall, regardless of whether they are used at a later time, only be valid if they have explicitly been acknowledged in writing. This shall also apply if the supply has been carried out by us without reservations after the contracting party has challenged validity of our T&Cs. General terms and conditions of business which contradict one another shall not affect the validity of the concluded contract.
2. Special conditions are added to the general terms and conditions according to business area.
3. On placing an order, the contractual partner agrees that our terms and conditions are valid for the entire business relationship with him, also including the future.
4. Verbal agreements by our representatives and employees, as well as any other agreements, – in particular alterations to these terms and conditions – are valid only if they are confirmed by us in writing.
5. We will make plans, drawings, calculations or any other documents available only under reserve of our proprietary rights and copyrights. Passing on to a third party may occur only if we expressly agree beforehand in writing.

II. Offer, conclusion of the contract

1. Our offers are always provisional unless something different has been agreed in writing.
2. Concerning acceptance of the order, the size of the delivery and the point in time of the delivery, only our written confirmation of the order is decisive.
3. Illustrations concerning our goods, information given about weight and size, technical data etc. are valid, irrespective of the particular means of communication, only as approximate values usual in the industry, unless they were expressly indicated as binding in the written confirmation of the order.
4. Information about payloads and axle loads always refers to the respective basic model, that is without superstructural parts and installed equipment. Superstructural and installed parts increase the axle load and thereby decrease the payload.
5. Objections to confirmations of orders must be received by us immediately in writing at the latest within eight days of the issue date.

III. Prices

1. If nothing is stated to the contrary, we remain bound by the prices in our offers for 30 days from the date of the offer. The prices stated in euro plus the respective statutory turnover tax specified in the confirmation of the order are decisive. Deliveries and services above and beyond this, e. g. costs of inspection and processing, as well as changes requested by the contractual partner, are calculated separately.
2. Our prices from the works/stockroom respectively do not include packaging, freight or duty, nor the rate of statutory turnover tax current on the day of delivery or performance of the service.
3. If there are more than four months between the conclusion of the contract and delivery, without us being responsible for a delivery delay, the price can be increased accordingly, taking wage, material, energy and other costs incurred into account. If the purchase price increases by more than 40 percent, the customer has the right to withdraw from the contract.

IV. Delivery and service, right to modifications

1. Unless otherwise agreed, we deliver ex works.
2. Dates and deadlines for deliveries and services are binding only if they have been expressly confirmed by us in writing as binding. The “approximate” dates for deliveries and services given by us are not legally binding. Fixed dates must be confirmed as such in writing by us. A delivery deadline is met if, by its end, the contractual item has left our warehouse, or the contractual partner has been advised of readiness to dispatch.
3. If they are standard business practice, partial deliveries and performances are permitted, and can also be charged for separately by us. As an exception, partial deliveries and performances are not permitted if they are unreasonable for the contractual partner.
4. If a non-binding delivery or performance date is exceeded by more than 6 weeks, the contractual partner is then justified in asking us in writing to deliver or perform the service within a reasonable time period. If the delivery and service is not performed by us by the end of the additional time given for contractual performance, the contractual partner can withdraw from the contract by means of a written statement. The contractual partner can demand damages caused by delayed performance or damages due to non-fulfilment only if they are based on a deliberate or grossly negligent breach of duty

on our part. 5. We are not responsible for delivery and performance delays, even where a binding agreement has been made for deadlines and dates, caused by force majeure and other events which make delivery considerably more difficult or impossible for us – this especially includes industrial disputes, disruptions to business, difficulties with the power supply, disturbances, official measures, failure to supply by our suppliers, disruptions to transport etc. In these cases we are obliged to inform the contractual partner without delay of the disruption to the delivery or service, and its predicted duration. In these cases, the deadlines and dates are extended by the duration of the hindrance plus a suitable amount of time to gear up production. Such unpredictable events justify us from withdrawing partly or completely from the contract. Claims for damages by the contractual partner are excluded unless they are based on a deliberate or grossly negligent breach of duty on our part.

6. The fulfilment of our delivery or service duties requires the punctual and correct fulfilment of the contractual obligations by the contractual partner, particularly his payment obligations.
7. If the execution of a delivery is delayed at the contractual partner's wishes, he bears the extra costs thus incurred, as well as the danger of possible loss or deterioration of the goods to be delivered, from the time of notification that the goods are ready to be delivered.
8. After the confirmation of the order has been sent, the right to structural changes and deviations from the information in the brochure and catalogue also remains expressly reserved, as long as the price and/or the fundamental performance characteristics and the delivery date are not changed, and the alterations/deviations are reasonable for the contractual partner.
9. The duty of examination and notification of nonconformity according to section 377 of the German Commercial Code [HGB], for which the contractual partner is responsible, is also valid for our deliveries and services outside the law relating to sales.

V. Conditions of payment

1. Fundamentally, payments must be made without deduction into the account specified, by the agreed settlement date; failing that, then when delivery is accepted, or it is ready to be delivered.
2. The expected payment date given in our invoice is valid as the contractually agreed settlement date. If the customer falls completely or partly behind with his payment obligations, he must then pay interest on the arrears from this point in time, as per section 288 of the German Civil Code [BGB]. Further claims due to delay in payment are not affected by this.
3. We accept bills of exchange only on the basis of a separate written agreement. The contractual partner bears bank, discount and collection expenses.
4. We reserve a right of retention in the agreed deliveries and services, until the customer has fulfilled all claims which we have and which arise from this contract before delivery or service, or from the business relationship between us and the customer, without regard to their legal basis or point in time that they came into existence. As soon as we have asserted the right of retention against the customer, our obligations under this contract are deemed to be suspended until the outstanding demands have been fully met.
5. If, after the contract has been concluded, we become aware of circumstances which diminish the creditworthiness of the contractual partner, we are justified in refusing service and in deciding on an appropriate deadline by which he must pay step by step on receipt of delivery, or must provide a security. If the contractual partner refuses or when the deadline is reached without success, we can withdraw from the contract and charge for damages due to nonfulfilment.
6. The contractual partner has no right to hold back payment of the purchase price on the basis of possible counterclaims which do not stem from this contractual relationship. A setoff right exists only for undisputed or counter claims established as having legal force.

VI. Retention of title

1. All goods delivered (goods under retention of title) remain our property until payment in full of all our claims arising from our business relationship, including future claims, irrespective of the legal basis; this applies also when payments for separately indicated demands are made. In the case of an open account, the retained property serves as security for our claims for the outstanding balance.
2. The contractual partner may only resell the goods with a retained title through regular business dealings, as long as he is not in arrears, and on condition that their buyer cannot set the counterclaims off against the claims from the resale. The contractual partner is not entitled to other access to the goods with a retained title, particularly for a chattel mortgage or for pledging.
3. Claims from the resale of the goods with a retained title are even at this stage transferred to us as a security until the payment in full of our claims is made (subsect. 1). We take this assignment for security now.
4. The contractual partner is justified in collecting payments from the re-sale

until our revocation, which we may make at any time. The proceeds made from the resale of our goods with a retained title immediately become our property, to the value of our respective proportion of the invoice. The contractual partner must keep our proportion of the proceeds of the purchase separate from his assets, and must keep them safe for us on trust. The proceeds kept safe on trust must be handed over to us without delay, and at the latest by the due date of the payment claim on which they are based. Our authority to ourselves collect the payment transferred to us, if our conditions of payment are not met, remains unaffected by this. If we so wish, the contractual partner is obliged to make known to their purchasers the assignment made to us, and to give us the necessary information for the assertion of the claims. In the case of distraint measures by a third party affecting our security interests, the reseller must make reference to our rights and inform us immediately.

5. If the contractual partner is late in paying, we are justified, after an appropriate period of time for fulfilment, to demand (at the contractual partner's cost) the return of the goods with a retained title, even without withdrawing from the contract.

6. The contractual partner's right to resell and to take payments hereby automatically ceases to exist, without requiring a period of time for fulfilment, if the conditions exist where the contractual partner could apply for the opening of insolvency proceedings. The same applies in the case of a fruitless expiration of a deadline set according to subsection V. 5. If the contractual partner's right to resell comes to an end, we can demand that the goods with a retained title are returned at the contractual partner's cost. In every case, the contractual partner must recompense additional freight, dispatch and other expenses, as well as a possible decrease in the value of the goods.

7. Processing and treatment of the goods with a retained title take place for us as the manufacturer in the sense of section 950 I of the German Civil Code, without binding us. If the goods with a retained title are combined or processed with objects which do not belong to us, we thereby acquire the share of the ownership of the new item as per the ratio of the invoiced value of our goods to the invoiced value of the other goods used. Processed goods or our coownership shares are in this case regarded here as goods with a retained title in the sense of the previous subsect. 1. to 5.

8. If permitted by the law of the land in which the objects of our delivery/service are located does not permit a retention of title in the objects of our delivery/service, then we have a claim to the use of other rights in relation to this, which we may reserve according to the local law of the land. The customer will support us in every way in taking measures necessary for us to protect retentions of title or other similar rights of this type, as mentioned.

9. During the period of the retention of title, we have the right to insure at the customer's expense the goods under retention of title against theft, risk of breakage, fire, water, and other damages to the object of our delivery/service, unless the customer proves that he has himself taken out such insurance. If third parties assert a right in the objects in our delivery/service, then the customer must inform us immediately, and must reject such rights claimed in the objects by the third party.

10. If the value of the securities existing for us exceeds our claims, not only temporarily, by over 20%, we will return securities of our choice to a corresponding value, if requested.

VII. Guarantee

1. For newly manufactured items, we provide a guarantee to the first buyer (contractual partner) for the quality of the processed materials, the design and construction for a period of one year, so long as the buyer is a commercial enterprise. The guarantee covers used items for one year, where the buyer is a consumer. Where the contractual partner for used items is a commercial enterprise, no guarantee whatsoever is provided except in the case of intent or malice.

2. We must be informed of complaints or defects resulting from recognisable, incomplete or inaccurate delivery immediately after receipt of the goods. The notification is deemed to be timely if it is received within four working days after the goods have been received. Defects, which cannot be discovered even after the most careful checking within this time period, must be reported without delay in writing after they have been discovered. For mutual commercial business between traders, section 377 of the German Commercial Code remains unaffected.

3. For justified complaints we are obliged, to the exclusion of other claims, to carry out repairs and/or to make a replacement delivery at our discretion. In the case of delayed, unfulfilled, or unsuccessful repairs or replacement delivery, the contractual partner can, for newly manufactured items, claim a reduction of the payment, or withdraw from the contract. The guarantee for the replacement delivery and for repair is provided in the same way as for the original, contractual item. However, the guarantee is only in place until the end of the time period of the guarantee for the original item, unless a statutory regulation makes provisions to the contrary. Complaints do not release the customer from the duty to comply with the agreed payment obligations; the customer has no right of retention in this regard. The acceptance of contractually agreed characteristics requires our written declaration and confirmation in every case.

4. The guarantee taken on by us ceases to exist if the item delivered has been changed by an unknown party or has been modified by the installation of parts of unknown origin, and the damage is causally related to the change made. Furthermore, the guarantee excludes the case where it is established

that the total weight permissible according to the relevant provisions under the Road Traffic Act, or the axle loads, or the maximum permitted weight capacity or the bearing capacity of the chassis based on the delivery contract are exceeded, and this is attributable to the contractual partner. Natural wear and tear, and damage resulting from negligent and/or improper treatment or incorrect maintenance and repair, are excluded from the guarantee.

5. If the object of our delivery/service is brought to a country other than where the customer's headquarters are situated, and the guarantee is to be fulfilled there, then the customer must reimburse us for all additional costs resulting from the fulfilment of the guarantee in that country. Otherwise, we reserve the right to require the customer to transport at his expense the object of our delivery/service to a repair centre which we will specify.

6. Replaced defective components become our property.

VIII. Liability

1. Liability for damage merely based on a slightly negligent causing by us and/or not originating on the object of supply itself has been ruled out. This shall also apply to subsequent damage of any kind, unless it is based on a deliberate or grossly negligent breach of duty on our part. This exclusion of liability shall not apply in cases in which we are liable for personal and property damage to objects in private use according to the German Product Liability Act in the event of defects of the subject matter of supply. The exclusion of liability shall further not apply to damage from an injury to life, limb or health based on a negligent breach of duty by us or a deliberate or negligent breach of duty of one by our statutory representatives or one of our vicarious agents.

2. Further claims are expressly ruled out for parts which we did not manufacture ourselves, particularly claims arising from a product defect for which the manufacturer is responsible. In this respect we assign all claims which we have against the respective manufacturer and/or preliminary supplier to the contractual partner.

3. To the extent that our liability is excluded, this also applies for our vicarious agents.

IX. Vehicle Accommodation

1. The accommodation of vehicles for reconstruction purposes or repairs takes place free of charge, provided there is no delay in collection. If the latter is the case, we calculate demurrage and storage fees. Liability for loss or damage to accommodated vehicles or vehicle parts or parts to be repaired, due to theft, fire, disturbances or other causes for which we are not responsible, other than through intent or gross negligence, is excluded.

2. We are not liable for the additional contents of the vehicle except in the case of intent or gross negligence, unless it has been handed over to us on the basis of a special arrangement.

3. There is no liability for any damage whatsoever arising from test drives, unless it results from an intentional or negligent breach of duty by one of our legal representatives or vicarious agents.

X. Export control

1. The contracting party has knowledge of the fact that the supplies / services under the present contract may be limited by cogent or non-cogent national or international legal directives concerning export control. The contracting party undertakes to comply with all and any such regulations which may exist. Further, it takes note of the fact that they may change at any time and are applicable to the contract in the valid wording at the time in question.

2. Insofar as supplies / services on our part are delayed by export control law, an agreed delivery date or the delivery period stated in IV. Ziff. 4 shall be extended by the duration of such a delay and by the time needed for recommencement of the performance of the contract. If the contracting party has culpably breached export law, it shall indemnify us for the damage incurred as a result and hold us harmless against all and any claims to damages and/or expenditure.

XI. Further Provisions

1. Holzheim (86684, Germany) is deemed to be the agreed place of fulfilment. If the customer is a trader, the place of jurisdiction is Holzheim (86684, Germany).

2. German Law exclusively is decisive for this contractual relationship, and the UN Standard Law on Sales is excluded.

3. The contractual partner agrees that we process and use the contractual partner's personal data within the scope of the German Data Protection Act (Bundesdatenschutzgesetz), if the data is received as part of, or in the context of, our business relationship.

4. Should parts of the contract prove to be partly or completely void, the validity of the contract remains unaffected. If individual provisions prove to be void, the void provision is replaced by another provision which comes as close as possible to the financial intent of the void provision. If this cannot be achieved, then the relevant part of the contract is governed by the applicable legal provisions.

5. Without advance written agreement on our part, the customer may neither surrender nor transfer the contract, nor rights and demands arising from it.