

- 1.0 Exclusive applicability of these GTC towards entrepreneurs acc. §14 BGB, legal persons of Civil and Public LAW particular entities of Public LAW with the capacity to administer and dispose of its assets and properties.**
- 1.1. These general terms on sales and delivery (in the following: GTC) apply exclusively towards business people and companies, entrepreneurs acc. §14 German BGB (natural and legal persons) and particular entities of Public Law (see above) upon conclusion of a contract in the exercise of a commercial or independent professional activity or when entering into a legal transaction in exercise of his or its trade business or profession.
- 1.2. Our GTC apply towards such purchasers without exception for all of our offers, agreements and deliveries.
- 1.3. The GTC of the purchaser do not commit us even if we have not yet objected after receiving them. That means that in case of a conflict between our GTC and the general terms and conditions of the purchaser, our GTC apply exclusively. For this reason, such additional or supplemental provisions contained in the general terms and conditions of the purchaser that are absent in these GTC do not become subject of the contract.
- 2.0 Conclusions of contract and prices**
- 2.1. Our offers remain subject to change, whereas our proprietary and copyrights or those of our suppliers to offers, drawings and other documentation (regardless of whether physical or intangible, particularly electronic form) persist. They may not be made accessible to third parties and must be immediately returned to us on demand.
- 2.2. Images in our prospectuses, notifications, in our internet presentation or the like are non-binding.
- 2.3. The purchaser is committed to his order for two weeks. This period begins with our receipt of the order. The contract is only concluded if we have confirmed the acceptance of the order in writing within this two-week period or have performed the delivery.
- 2.4. All agreements, particularly all contractual side agreements and additional contractual amendments, require our written confirmation for their validity. That also applies for warranties as well as the amendment and/or supplement to our GTC.
- 2.5. Insofar it is reasonable for the purchaser, partial deliveries are permitted.
- 2.6. Our prices are understood strictly net ex our stock or the manufacturer's factory. The legal value-added tax, packing, loading and shipment costs as well as the costs for the set-up and commissioning of the delivery item, therefore, are calculated additionally.
- 2.7. Deviations from our measurement, weight and performance data that are immaterial, customary or caused by technical improvements are permissible.
- 2.8. Warranties are only accepted by us upon special agreement. Such an agreement requires the written form for its validity. A reference to DIN standards only serves for the description of the object of performance and therefore does not represent a guaranty.
- 3.0 Terms of payment**
- 3.1. Payments – in each case without discount – must take place immediately after delivery and billing for vehicle deliveries and within 30 days after delivery and billing for replacement part deliveries. Cash discounts are only granted if they are assured by us in writing.
- 3.2. We are entitled to only perform outstanding deliveries and performances against payment in advance or security deposit if we acquire knowledge after conclusion of contract that our pecuniary claim is endangered by the purchaser's inability to pay.
- 3.3. Payment instructions, checks and bills of exchange are only accepted after special agreement and – with calculation of all collection and discount charges - only on account of performance.
- 3.4. Default interest is calculated in accordance with § 288 para. 2 BGB (German Civil Code) at eight percentage points above the prime lending rate.
- 4.0 Offsetting and right of retention**
- 4.1. The purchaser can only offset against our claims with counterclaims that are uncontested or determined to be legally valid.
- 4.2. The purchaser cannot invoke a right of retention that is not based on the same contractual relationship.
- 5.0 Delivery and delay in delivery**
- 5.1. Delivery dates and periods of delivery, which can be bindingly and non-bindingly agreed upon, are to be indicated in writing.
- 5.2. Periods of delivery begin with conclusion of contract, however not before clarification with the purchaser of all technical and commercial details.
- 5.3. In the case of agreement of a non-binding delivery date or a non-binding period of delivery, we can be placed in default by demand letter (cf. § 286 para. 1 BGB) four weeks after expiry of the delivery date or period of delivery
- 5.4. With labour disputes, with occurrence of unforeseeable obstacles lying beyond our area of influence as well as obstacles for which the manufacturer's factory is responsible, the delivery date or the period of delivery is extended for the duration of the delay in delivery contingent on these circumstances. This applies accordingly if the obstacles arise during an already existing delay in delivery.
- 5.5. The purchaser's claim to compensation for damages because of delay in delivery with slight negligence (§ 280 para. 1, para. in context of 2 BGB in context of § 286 BGB) is limited to 5% of the agreed-upon (net) purchase price.
- 5.6. All additional claims for damages sustained by the purchaser on the basis of delay in delivery with slight negligence are excluded. In particular, the purchaser cannot demand compensation for damages instead of performance (§ 280 para. 1, para. 3 BGB in context of § 281 BGB) on the basis of a delay in delivery with slight negligence.
- 6.0 Transfer of risk as well as shipment and acceptance of the delivery item**
- 6.1. With the surrender of the delivery item to the carrier, freight company or collecting customer, however at the latest when leaving our business establishment or the manufacturer's factory, the risk transfers over to the purchaser. This also applied if the transport of the delivery item was performed by us.
- 6.2. The risk already transfers over to the purchaser from the day of readiness for shipment if the delivery of the delivery item is delayed as a result of circumstances for which we are not responsible.
- 6.3. The delivery item is only insured by us against transport damages at the expressed request of the purchaser and at his expense.
- 6.4. We are not committed to choose the least expensive mode of despatch. Damage claims of the purchaser on the basis of incorrect shipment or defective packing with slight negligence are excluded.
- 6.5. The purchaser must, irrespective of his rights pursuant to Num. 10 of these GTC, accept delivered items, even if they exhibit significant defects.
- 7.0 Inspection**
- 7.1. The purchaser must inspect the delivery item at our place of business within eight days of the written communication by us of the availability deadline. In the case of non-inspection we can make use of our legal rights.
- 7.2. If we demand compensation for damages instead of delivery, it amounts to 10% of the agreed-upon (net) purchase price. The amount of damage is to be adjusted higher or lower if we demonstrate higher damages or the purchaser demonstrates lower damages.
- 8.0 Reservation of title, utilisation and release of securities**
- 8.1. The delivery item remains our property until payment in full of the purchase price as well as the legal value-added tax. The reservation of title also persists for all of our other claims from the sales agreement. The reservation of title also extends to all of our other claims from the business relationship with the purchaser. With an open account, the reserved title applies as security for our claims.
- 8.2. If the delivery item under reservation of title is processed together with objects in the sole ownership of the purchaser or combined with them and our ownership of the goods subject to reservation of title ceases as a result of this (§§ 947, 948 BGB), it is agreed that any new ownership is already transferred to us for the security of our still open claims at the time of its production and the item is to be kept safe for us by the purchaser free of charge and without right to return. If the delivery item under reservation of title is processed together with other objects in the ownership by way of security or reserved ownership of third parties or combined with them and our ownership of the goods subject to reservation of title ceases as a result of this (§§ 947, 948 BGB), it is agreed that we become co-owner of the new item arising from the processing or combination proportional to the value of our goods subject to retention of ownership to the value of the goods subject to ownership by way of security or reserved ownership of third parties.
- 8.3. Insofar as our reservation of title of the delivery item exists, we are exclusively entitled to possession of the vehicle documents.
- 8.4. The purchaser must insure the goods subject to reservation of ownership against theft, machinery breakdown, water and fire damages at his own expense, provided that we are entitled to the rights from the insurance policies.
- 8.5. Insofar as our reservation of title exists, a sale, pledge, transfer by way of security, lease or other transfer or alteration of the delivery item affecting our security is only permitted with our prior written agreement. The purchaser is, however, – contrary to Numeral 8.5 p.1 of these GTC – entitled to sell the delivery item remaining in our ownership in the normal course of business. However, he immediately relinquishes all claims (including legal value-added tax) towards his buyer or third parties from the sale of a delivery item remaining in our ownership to us. This also applies proportionately in the amount of the value of our co-ownership if the delivery item is processed into other objects or combined with them. The purchaser remains entitled, however – up until revocation – to the recovery of the aforementioned claims assigned to us in the scope of orderly business.

Our power of recovery of the claims assigned to us remains unaffected thereof. We are committed to not recover the claims assigned to us as long as the purchaser is not in default with payments due on the claims secured by his aforementioned assignment of claims and no petition has been filed for the opening of insolvency proceedings over his assets. In the case of default of payment, we will threaten the purchaser in writing with the recovery of the claims he has assigned to us with a time limit of two weeks. As soon as we are entitled to recovery of the claims assigned to us, the purchaser must surrender all necessary documentation and confer information for the enforcement of the claims and, in particular, give us the complete names and addresses of the debtors of the claims that he has assigned to us.

- 8.6. With seizures by third parties, in particular with attachments, of the items remaining partly or entirely in our ownership, the purchaser must immediately report this to us in writing and promptly inform the third parties of our reservation of title. The purchaser must bear the costs of third party actions against execution as well as all other costs that are necessary for the release of the seizure and for the recovery of our goods.
- 8.7. The purchaser must keep the delivery item in proper condition for the duration of the reservation of title and have all maintenance work that is designated by the manufacturer and necessary repairs – barring emergencies – carried out immediately either by us or a workshop approved by the manufacturer for the care of the delivery item.
- 8.8. We are committed, on demand, to the release of securities of our choice, insofar as the feasible value of all our securities does not only temporarily exceed the total amount of all our claims by more than 20%. We will consider the legitimate interests of the purchaser with the selection of the securities to be released by us.

9.0 Duty of the purchaser to inspection, notification and rejection

- 9.1. The purchaser must inspect the delivery item immediately after its receipt, insofar as this is feasible in the orderly course of business, and, if it exhibits a defect, to immediately notify us of this in writing. If the purchaser neglects to inform us in writing, the delivery item applies as accepted unless it involves a defect that was not recognisable during the inspection.
- 9.2. If the delivery item exhibits a defect at a later time, the purchaser must notify us of this defect in writing immediately after its discovery; otherwise the delivery item applies as accepted even in consideration of this defect.

10.0 Material defects

- 10.1. With the sale of used delivery items any liability for material defects, and thus any guaranty, is excluded. This does not apply with gross negligence or injury to the life, body or health. Numeral 10.1 Clause 1 of these GTC does not find application here either, if we fraudulently conceal a defect or have assumed a guaranty for the condition of the delivery item.
- 10.2. With the sale of new delivery items the following applies:
- 10.2.1. The claims of the purchaser on the basis of a material defect of the delivery item – regardless from which legal ground – are time-barred to 12 months starting from its delivery. This does not apply with gross negligence or injury to the life, body or health. Numeral 10.2.1 Clause 1 of these GTC does not find application here either, if we fraudulently conceal a defect or have assumed a guaranty for the condition of the delivery item as well as with claims according to the Product Liability Act.
- 10.2.2. The claims of the purchaser on the basis of a material defect already existing at the time of the transfer of risk are – insofar as we do not fraudulently conceal a defect or have assumed a guaranty for the condition of the delivery item – limited to subsequent fulfilment in the form of removal of defects or the delivery of a fault-free delivery item, according to our choice. With failure of the form of subsequent fulfilment that we have chosen (removal of defects or delivery of a fault-free delivery item), the purchaser is entitled to the reduction of the purchase price of the delivery item or to withdrawal from the contract, according to his choice.
- 10.3. No guaranty is assumed for natural wear, use in extraordinary conditions, incorrect or careless handling as well as the unintended use of the delivery item. This applies in particular, if the purchaser uses incorrect lubricants or does not observe the maintenance intervals prescribed by the manufacturer's factory.
- 10.4. The purchaser is barred from claims on the basis of material defects if – barring emergencies – a repair, alteration or replacement of individual parts on the delivery item is carried out by persons not expressly authorised by us for this purpose. The costs arising through such measures – leading to the loss of claims based on defects – must be borne by the purchaser.

11.0 Liability

- 11.1. For damages sustained by the purchaser not arising on the delivery item itself, which are caused by a material defect of the delivery item, we are only liable
- with gross negligence,
 - with injury to the life, body or the health,
 - with the culpable breach of contractual duties jeopardising the fulfilment of the purpose of the contract with respect to the foreseeable, typical damages at the conclusion of contract,
 - in cases where faults on the delivery item are responsible for personal injuries or material damages to privately used objects according to the Product Liability Act,
 - with faults of expressly warranted features of the delivery item, if the warranty had the specific purpose of safeguarding the purchaser against damages not arising on the delivery item as well as
 - with fraudulent concealment of faults or the assumption of a guaranty for the condition of the delivery item.
- Apart from that, our liability is excluded.
- 11.2. For the damages sustained by the purchaser not arising on the delivery item itself, which are not caused by a material defect of the delivery item, Num. 11.1 of these GTC applies accordingly.
- 11.3. Our liability for damages sustained by the purchaser caused by delay in delivery is conclusively regulated in Num. 5.0 of these GTC. Num. 11.1 and Num. 11.2 of these GTC apply accordingly for damage claims against our representatives as well as auxiliary persons and vicarious agents.

12.0 Use of software

- 12.1. Insofar as we deliver software with the delivery item, the purchaser is not granted an exclusive right to the use of this software in the contractually agreed-upon extent. Use of the software beyond the delivery item for which it is appointed and/or beyond the contractually agreed-upon extent is prohibited. Num. 12.1 Clause 1 and Clause 2 of these GTC apply exclusively for any (software) documentation handed over by us to the purchaser along with the software.
- 12.2. All rights to the software delivered by us with the delivery item remain with us and/or our software suppliers. The awarding of sublicenses is not permitted. Num. 12.2 Clause 1 and Clause 2 of these GTC apply accordingly for any (software) documentation handed over by us to the purchaser along with the software.

13.0 Place of fulfilment, place of jurisdiction, applicable law and severability clause

- 13.1. The place of fulfilment for the delivery of the delivery item is our registered office (place of business) entered in the commercial register (in the following registered office).
- 13.2. The jurisdiction for all claims from the respective contract is the local district court responsible for our registered office with complaints with amounts in dispute up to and including 5,000.00 € and the local regional court responsible for our registered office with complaints with higher amounts in dispute. We are also entitled to bring an action against the purchaser in his general jurisdiction.
- 13.3. German Law finds exclusive application (with exclusion of the CISG or UN Sales Law).
- 13.4. If a provision of these GTC should be or become invalid, the legal validity of the remaining provisions remain unaffected thereof. Instead of an invalid provision, it is agreed that a valid provision that comes closest to the economic purpose of the invalid provision applies.