

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

I. General remarks

- These Terms and Conditions of Sale and Delivery shall form an integral part of each offer or transaction. Contradicting terms and conditions of the Buyer shall only apply with our express written consent.
- The place of performance and exclusive jurisdiction for both parties for current and future claims arising from our business relationship, including claims under bills or documents, shall be the competent court in 5020 Salzburg having subject-matter jurisdiction for 5301 Eugendorf. Austrian law shall apply.
- The Buyer shall only be entitled to assign claims under agreements concluded with us to third parties with our written consent.
- If these General Terms and Conditions of Sale and Delivery or any other agreements entered into with the Buyer should become ineffective in whole or in part for any reason whatsoever, this shall not affect the remaining provisions of the agreement.

II. Conclusion of contract and contents

- The Buyer shall be bound by the offer (order) it has made until it is either accepted or rejected by us. The offer (order) shall not lapse until a letter sent to us by registered mail, granting us a period of grace of at least 2 weeks to accept the offer, is unsuccessful.
- A contract shall not be deemed concluded until we issue a written order acknowledgement.
- The Buyer expressly acknowledges that the contents of the contract shall be in accordance with our letter of acknowledgement.
- Ancillary verbal agreements and subsequent contract modifications shall only be effective if confirmed by us in writing. The same shall apply to warranted characteristics of the delivered products.
- We reserve the right to make modifications in design or form within the delivery period, as long as such modifications do not considerably alter the delivered product or its appearance.
- Information provided in the specifications concerning capacities, weights, speeds, etc. shall be approximate and therefore non-binding. No rights shall be derived from the supplying plant's use of letters or numbers to designate the orders or the ordered products.

III. Prices

- Prices shall be ex-works and net, excluding packing, freight or any insurance. Discounts shall be excluded. Value-added tax (sales tax) shall be charged extra. The agreed prices are subject to possible price increases by the supplying plants, an increase in freight and customs duties, modifications of the official foreign exchange rates and any other import expenses or taxes.
- If our list prices increase between execution of the contract and delivery of the goods subject to list prices, we shall be entitled to increase the price agreed at the time of executing the contract by the amount of the increase in our list prices arising between execution of the contract and delivery. The price agreed in the order acknowledgement shall apply to all other goods, especially to special designs, provided that we are entitled to charge the Buyer for the increase over the agreed cost arising between execution of the contract and delivery.
- If the goods are not shipped by us, foreign customers shall obtain the proof of exportation required for an exemption from value-added tax and forward such proof of exportation to us. If no proof of exportation is provided, the value-added tax (sales tax) shall be payable to us, as is required of domestic customers.

IV. Terms of payment

- All of our invoices are due for payment immediately upon receipt. In case of default, 10% default and compound interest shall be payable on the relevant outstanding amount.
- Bank transfers, checks, bills and any other means of payment shall be accepted on account of performance only, deducting any collection and discount charges. Passing on and prolongation shall not be deemed to discharge the debt. No liability shall be assumed for the timely presentation, protestation, notification or return of such payment.
- If instalments are agreed with us and one of the payments is even only partially overdue for more than 8 days, this shall be deemed as payment default.
- The Buyer's right to set off or right of retention shall be precluded unless the Buyer's counterclaims are legally enforceable by execution or acknowledged by us.
- Several Buyers shall be jointly and severally liable.
- Payments must be effected to us or to one of our expressly authorized collecting agents in order to have a debt-discharging effect.
- Payments effected shall first be offset against the costs incurred including credit costs, then against the interest, the Buyer's debt for the current account, any repair costs, etc. and finally against the purchase price.
- The Buyer shall not be entitled to offset alleged counterclaims against the supplying plant through instalments on the purchase price nor shall he have a right of retention against the supplying plant.

V. Right of retention

Notwithstanding supplementary legal provisions or other agreements, we shall be entitled to retain any products to be delivered to the Buyer or products already handed over to the Buyer that are still in our possession or to which we still hold the title or for which the title was transferred to us, until all claims against the Buyer arising from our business relationship have been satisfied.

VI. Retention of title

- Without prejudice to the obligation to pay upon acceptance of delivery, the Seller shall retain the title to all products until all of the Buyer's obligations under the purchase agreement have been paid in full. The retention of title shall also apply to all claims related to repairs, spare parts, accessories and operating supplies, legal and execution costs, suspension and insurance costs.
- The retention of title can be recorded in the homologation certificate, in the individual license or on the vehicle. The homologation certificate or individual license shall be kept in our custody as long as the title is retained.
- The customer shall immediately inform the Seller by registered mail if the vehicle should become subject to attachment by third parties. The Buyer shall not be entitled to surrender the object of purchase to third parties or to sell or encumber the object of purchase without our written consent. The Buyer shall immediately inform us of a change of residence or domicile or of any imminent attachment of the object of purchase. If the Buyer should have claims against third parties resulting from infringements of the contract on the part of the Buyer, e.g. disposing of our property, such claims shall immediately be assigned to us.
- The Buyer shall insure the object of purchase at replacement value against all risks for the duration of the retention of title and shall have the insurance policy assigned in favor of the Seller.
- The Buyer shall keep the object of purchase in a proper condition as long as it is subject to a retention of title and to have any repairs that may become necessary performed at the Seller's repair shop.
- If the object of purchase is resold with the Seller's consent prior to payment, the Buyer shall assign his claims towards the third party debtor arising from this sale to the Seller at this time. Both the third-party debtor and the Seller shall be notified of such assignment.
- If the Buyer fails to fulfill his contractual obligations, we shall be entitled to assert our right

of retention without involving the courts. The Buyer shall specifically authorize us to repossess the object of delivery at his expense and acknowledges that – unless specified otherwise by us – such repossession shall not constitute a cancellation of the contract but merely a means of securing the object of delivery. The Buyer shall not be entitled to file a claim for damages or trespassing against us or our authorized agent due to such repossession and hereby expressly waives such right.

- If the object of delivery is returned, the Buyer agrees that the vehicle's current market value shall be established by a certified automotive expert to be appointed by us and that the value assessed by such automotive expert shall be credited to the outstanding amount due to us by the Buyer, deducting any costs e.g. commissions, appraisal fees, repairs, etc. The Buyer hereby expressly waives any other utilization of the returned object of delivery and any further claims.

VII. Delivery

- Our delivery periods shall not be binding. If they are exceeded by more than 3 months, the Buyer shall be entitled to rescind the contract in accordance with the Austrian Civil Code. Other claims are precluded.
- A specified delivery period shall not begin until the contract comes into force and an agreement has been reached between the parties on the type of design, under the proviso that the agreed terms of payment are met on time. If with regard to any aspect the Buyer requests the object of delivery to be produced in a different design prior to delivery, the agreed delivery period shall become void.
- We shall not be responsible for acts of God, including the stoppage of production, strikes, lockouts, shutdown of our plants in whole or in part for any reason whatsoever, the occurrence of such events in our suppliers' plants, war, riot or governmental action.
- If – after executing the contract but prior to delivery – we become aware of circumstances in the Buyer's financial situation which according to the principles of a conscientious businessman lead us to assume that our claims are no longer reasonably assured, we shall be entitled to request advance payment or collateral or to rescind the contract.

VIII. Passing of the risk

The risk of destruction in whole or in part as well as the risk of deterioration, loss, damage, or seizure shall pass to the Buyer:

- upon delivery of the object of delivery to the Buyer or one of his appointed or authorized agents;
- if the object of delivery is shipped upon dispatch ex-works, regardless of who handles the shipment, so that the transport risk is always borne by the Buyer;
- upon sending the notice of completion to the Buyer or his agent.

IX. Acceptance

- The Buyer shall be entitled to inspect the object of delivery within 8 days after receiving the notice of completion at the agreed acceptance site. The right to inspect shall be implicitly waived if the inspection is not made during the specified period of time or if the delivery order is given. In this case the object of delivery shall be deemed accepted and properly delivered upon delivery to the Buyer or his agent.
- If, upon receiving the notice of completion, the Buyer fails to take over the object of delivery or to give the delivery order or to fulfill his payment obligations or to provide the agreed collateral for more than 14 days, we shall be entitled to rescind the contract or to claim damages for non-performance. In the latter case we shall be entitled to claim 12.5% of the purchase price as liquidated damages without being required to provide proof of the loss. In addition, the Buyer shall reimburse our agent for his loss of commission. We shall be entitled to claim this commission in our own name.

X. Warranty and liability

- Warranty shall take effect upon delivery of the delivery object, i.e. upon shipment of the delivery object. In the event of delayed receipt, warranty shall take effect upon sending of the notice of completion to the Buyer or its agent (see also Section VIII – Passing of the risk and Section IX – Acceptance).
- We shall warrant for our products and deliveries according to the legal provisions and the applicable Austrian standards (O-Norm).
- Claims under the warranty shall be subject to compliance with the obligation to immediately report any defects as provided under § 377 Commercial Code (HGB) in writing.
- Performance under the warranty shall be, at our option, repair or replacement of goods returned that have become damaged or useless due to proven defects in design, material or workmanship, not however as the result of natural wear. The title to any replaced parts shall pass to us. Disassembly and assembly costs, freight costs / shipping costs, towage as well as any customs duties shall be borne by the Buyer. We shall not bear any additional costs resulting from the rectification (traveling to and from workshop, downtimes, loss of sales, etc.).
- The rectification of the defect subject to warranty obligation shall take place at Kässbohrer Car Carriers International GmbH or at an affiliated workshop specified by Kässbohrer Car Carriers International GmbH. Costs of any other workshops shall be excluded unless Kässbohrer Car Carriers International GmbH has approved thereof in writing. It shall not be permitted to start such rectification procedures before such an approval has been provided. If an approval is not provided, the costs for rectifying the defect shall not be borne by Kässbohrer Car Carriers International GmbH.
- Claims for rescission or a reduction of the purchase price shall be precluded if we are able to repair or replace the defective parts. Any claims for damages, including claims for breach of contract or loss of profit, cost of procuring a replacement, etc. shall be excluded in any event.
- Claims under the warranty shall lapse
 - if the object of delivery is modified by third parties or by installing third party parts and it cannot be precluded that such modification caused the defect/damage;
 - if our operating instructions were not followed or if the object of delivery was tampered with;
 - if it can be established that the maximum total weight, the axle load, the maximum load or the chassis load capacity were exceeded.
- We shall only warrant for delivered parts not manufactured by us to the extent that warranty claims can be filed against us on the merits, if we are still entitled to claim indemnification from the supplier under the warranty and only by assigning such claims.
- We shall not warrant for the delivery of used vehicles or parts.
- If the Buyer requests ex-works shipment at the Buyer's risk, we shall not assume the liability for compliance with any shipping regulations we may have received.
- We shall not be liable for deterioration, loss or damage to any of the Buyer's products by fire, water, burglary, theft, plundering or causes beyond our control.

XI. Product liability

The object of purchase shall only provide the security that can be expected by virtue of the registration regulations, operating instructions, manufacturer's regulations for handling the object of delivery (owner's manual) – particularly with respect to the prescribed inspections – and any other information that may be provided. Duty of replacement for any claims exceeding the Product Liability Act, Federal Gazette no. 99/1988 as amended shall be excluded.