

### **Sphere of validity**

1. These general terms and conditions of delivery and payment shall be regarded as having been agreed between the parties to the contract. The terms and conditions of business of the other party to the contract shall not be valid unless they are recognised by us in writing.

### **General provisions**

2. The parties to the contract shall confirm verbal agreements straight away individually in writing.
3. Orders shall only become binding with our order confirmation.
4. The information and diagrams contained in leaflets, catalogues and in the internet are approximate values normal in this industry, unless they have been expressly designated by us as being binding.

### **Prices**

5. Our prices are in Euro, if no other currency is stated. They are exclusive of value-added tax, packing, freight, postage and insurance.

### **Terms and conditions of payment**

6. All invoices will become due for payment within 30 days from the date of invoice. A prompt payment discount of 2 percent will be offered if payment is effected within 10 days from the date of invoice, provided that the other party to the contract is not in arrears with the payment of other accounts he owes to us. With new customers we shall reserve the right to specify the method of payment either by cash on delivery, direct debit from the customer's bank account or payment in advance.
7. If it is beyond dispute that some of the parts we have delivered are defective, the other party to the contract shall nevertheless be obliged to pay for the proportion of the consignment delivered which is not defective, unless the part consignment is of no use to him. Moreover, the other party to the contract can only offset counter claims which have been declared final in a court of law or which are uncontested.
8. In the event that our terms of payment are exceeded we shall be entitled to invoice default interest at the rate charged by the bank for us for overdrafts on our current account, no less however, than 6 percentage points above the base rate of the European central bank.
9. In the event of default in payment, we can, following written notification to the other party to the contract, stop the fulfilment of our obligations until we have received payment.
10. Drafts and cheques shall only be accepted after agreement as well as in fulfilment and under the prerequisite that they can be discounted. Discount fees shall be invoiced from the date on which payment of the invoice sum becomes due. No warranty shall be given for the draft and cheque being presented on time and for the cancellation of a draft protest.
11. We shall be able to demand payment in advance or a security within an appropriate period of time, if our claim to payment is placed at considerable risk as a result of a significant deterioration in the financial status of the other party to the contract once the contract has been signed. We shall also be able to demand payment in advance or a security within an appropriate period of time. We shall also be entitled to refuse to carry out our performance until our request has been fulfilled. It will be assumed that a significant deterioration of the financial status of the other party to the contract has occurred if he is in default with payment. In the event that the other party to the contract refuses or following the expiry of the period without success, we shall be entitled to withdraw from the contract or to demand damages for compensation for non-fulfilment.

### **Delivery**

12. Provided that nothing has been agreed to the contrary, we shall deliver „ex works“. It shall be the date on which we report that the goods are ready for despatch or for collection that will determine compliance with the delivery date.
13. The delivery period shall begin with the despatch of our order confirmation and shall be extended as appropriate if the preconditions of No. 42 are extant.
14. Partial deliveries shall be allowed to a reasonable extent. They shall be invoiced separately.
15. Production-related deliveries of up to 10 percent in excess, or shortfalls of 10 percent, of the total order volume shall be allowed. The total price shall be amended accordingly to reflect the actual quantity delivered.

### **Dispatch and passing of risk**

16. Once we have stated that the goods are ready for despatch, they are to be collected by the other party to the contract immediately. Otherwise we shall be entitled to despatch them as we see fit or to store them at the cost and risk of the other party.
17. In the absence of a separate agreement, we shall select the mode and route of transport.
18. The risk shall pass over to the other party when the goods are handed over to the railway, the haulier or to the freight forwarder or when the goods are first placed into storage. However, risk shall pass over no later than the point in time at which the goods leave the works or store. To be more precise, the risk shall also pass over to the other party if we are delivering the goods.

### **Delay in delivery**

19. If delivery is delayed as a result of a fact or circumstance stated in No 42 or as a result of an action or failure to take action by the other party to the contract, the other party shall have to compensate as appropriate for the delivery period.

### **Retention of title**

20. We shall reserve the right to retain title to the delivered goods until all our accounts from the business relationship with the other party to the contract have been settled.
21. The other party to the contract shall be entitled to sell these goods in the normal course of business, as long as he fulfils his obligations from his business obligation with us on time. However, he must not pledge or assign the goods as a security. He shall be obliged to secure our rights if he resells the goods subject to a retention of title on credit.
22. In the event that the other party to the contract is in default with payment, having set an appropriate period of time, even without withdrawing from the contract, we shall be entitled to demand the surrender of the goods subject to a retention of title at the expense of the other party to the contract.
23. All accounts and rights from the sale of goods or the rental of goods if the other party to the contract has rented them out, to which we are entitled to rights of ownership, shall be assigned to us here and now by the other party to the contract. We hereby accept the assignment.
24. Should the other party to the contract treat or process the goods subject to a retention of title, he shall always do so on our behalf. If the goods subject to a retention of title are processed or mixed with other objects not belonging to us so that they cannot be separated, we shall consequently acquire co-ownership to the new thing in proportion to the invoiced value of the goods subject to a retention of title to the other processed or mixed objects at the point in time at which they are processed or mixed. If our goods are connected with other movable objects to become a unitary thing or if our goods are mixed so they cannot be separated, and if the other thing is to be regarded as the main thing, the other party to the contract shall consequently assign co-ownership to us in proportion, provided that the main thing belongs to him. The other party to the contract shall keep in safe keeping the ownership or co-ownership for us. Moreover, the same conditions as for the goods subject to a retention of title shall apply for the thing created as a result of processing or combining or mixing.
25. The other party to the contract shall have to notify us straight away of third party enforcement measures initiated the goods subject to a retention of title, the claims assigned to us or on other securities. The other party must hand over to us the documents we shall require to intervene. This shall also apply for impairments of other types.
26. At the demand of the other party to the contract, we shall release the securities to which we are entitled in accordance with the above terms and conditions provided that, the value of the supplied goods subject to a retention of title exceeds the claims to be secured by more than 10 percent.

### **Warranty**

27. We shall give a warranty that the goods supplied by us have been properly manufactured in accordance with the agreed technical delivery instructions. If we have to supply in accordance with drawings, specifications, samples etc supplied by the other party to the contract, the latter shall take over the risk that the goods are suitable for the purpose for which they are intended. It shall be the point in time at which risk is passed over in accordance with No 18 which shall determine whether the goods comply with the condition specified in the contract.
28. A warranty for dismantling costs and installation costs, claims for expenses and for compensation for damages as well as other pecuniary loss which can arise on the basis of a defective delivery shall be expressly excluded.
29. No warranty shall be given either for defects caused by unsuitable or improper use, faulty assembly, or start-up by the other party to the contract or by third parties. No warranty shall be given either for normal wear and tear, faulty or negligent handling or for the consequences of improper modifications and modifications carried out without our consent or repair work carried out by the other party or by third parties.
30. The period covered by warranty shall be determined by German law, provided that nothing is agreed to the contrary.
31. The other party to the contract must give written notification of apparent defects straight away upon receipt of the goods and of hidden defects straight away - no later however, than within the statutory warranty period - once the defect has been discovered.
32. If an acceptance for goods or if a first sample test has been agreed, notification cannot be given of defects which the other party to the contract could have identified in the course of careful acceptance or careful first sample test. If acceptance or first sample test is not agreed, the statutory regulations shall apply.
33. We are to be given the opportunity to confirm the notified defect. Upon request by us, the goods about which a complaint has been made are to be returned to us straight away. We shall bear the costs of transportation if the notified defect is justified. If the other party fails to fulfil this obligation, or if he has already carried out modifications without our consent to the goods already complained about, he shall forfeit any warranty rights to which he may have been entitled.
34. In the event that notified defects made on time are justified, we shall at our choice either rectify the goods about which a complaint has been made or supply a replacement in perfect condition. In cases in which a quantity of the same objects have been delivered, the other party to the contract shall give us the opportunity to segregate the faulty goods.
35. If we should fail to satisfy these warranty obligations or should we fail to satisfy them in accordance with the contract within an appropriate period of time, the other party to the contract shall consequently set us a final period of time in writing within which we have to fulfil our obligations. After this period has expired unsuccessfully, the other party to the contract can demand that the price is reduced, withdraw from the contract, or carry out the necessary repair himself or have it carried out by a third party at our expense and risk. If the improvement has been carried out successfully by the other party to the contract or by a third party,

all the claims of the other party to the contract shall consequently be settled once all the necessary costs he has incurred have been settled by us.

#### **Guarantee**

36. The guarantee terms and conditions for products from the undercarriage technology sector shall only apply in a legal relationship between Vogtland Autosport GmbH and the end user (and not with the other party of the contract).

#### **Other claims, liability**

37. Provided that there is nothing to the contrary below, other claims and claims over and above these by the other party to the contract against us shall be excluded. This shall apply in particular for claims for compensation for damages, from impossibility of performance, from culpable breach of contractual secondary obligations, from indebtedness when the contract is signed and from illegal acts. Therefore we shall not be liable for damage which is not incurred by the supplied goods themselves. Above all, we shall not be liable for lost profit or other pecuniary loss by the other party to the contract.

38. The above restrictions on liability shall not apply in the event of intent, gross negligence on the part of our legal representative or senior staff as well as in the event of culpable breach of our fundamental contractual obligations. In the event of culpable breach of fundamental contractual obligations, we - except in the cases of intent and in gross negligence by our legal representative or senior staff - shall only be liable for damage typical for this contract or which could reasonably have been foreseen.

39. In addition to this, the limitation of liability shall not apply in those cases in which according to (German) product liability law, defects in the supplied goods are liable for personal injury and property damage to privately used objects. The limitation of liability shall not apply either to defects in warranted qualities if, and to the extent that, the very objective of the assurance is to safeguard the other party to the contract against damages which are not incurred by the supplied goods themselves.

40. In so far as our liability is ruled out or is limited, this shall also apply for personal liability by our salaried staff, workers, staff legal representatives and agents.

41. The statutory regulations (in Germany) on the burden of proof shall not be affected by this.

#### **Force majeure**

42. Force majeure, labour disputes, unrest, official measures, lack of supplies by our suppliers and other unforeseeable unavoidable and serious events shall exempt the parties to the contract from their performance obligations for the duration of the disruption and for the scope of the effect. This shall also apply if the event occurs at a point in time at which the parties to the contract concerned are in default. The parties to the contract shall be obliged to provide the information required straight away within the scope of what is reasonable and to modify their obligations to reflect in good faith the changes in circumstances.

#### **Place of fulfilment, place of jurisdiction, and law applicable.**

43. The place of fulfilment for the contract is Hagen/ North Rhine-Westphalia.

44. The town in which we have our main place of business shall be the place of jurisdiction for all legal disputes, even in the event that the dispute concerns legal proceedings based on a bill of exchange or cheque. This is provided that the other party to the contract is a registered trader, a state-owned legal institution or a state-owned special fund. We shall also be entitled to take legal action at the courts responsible for the town in which the other party to the contract has his principle place of business.

45. The contractual relationship shall be subject only to the law of the Federal Republic of Germany. The application of the United Nations Agreement dated 11th April 1980 on contracts on the sale of goods (CISG - „The Vienna Law on Sales“) shall be ruled out.