

General Terms of Delivery and Sales

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Preamble

The following terms and conditions of delivery are principally designed for legal business transactions between companies (§ 14 BGB (German Commercial Code)). If in exceptional cases these also concern legal business transactions with consumers (§ 13 BGB), they shall apply only insofar as they do not counteract the essential regulations of the (in particular as regards purchasing rights) consumer protection or consumer protecting General Terms and Conditions of Business pursuant to §§ 305ff. Oberaigner Automotive GmbH shall in the following be referred to as the Supplier or the Seller.

I. General

1. These terms and conditions of delivery and sales are a significant component of every offer and every contract with the Supplier in their valid current version in each case at the time of conclusion of a contract. They shall apply insofar as the contract parties have not expressly agreed otherwise in writing.
2. Any terms and conditions of the business partner that oppose, deviate from or conflict with these terms and conditions – also making reference to business letters, delivery receipts or invoices – shall not be recognised, especially not by keeping the contents secret.
3. Agreement to include the General Terms and Conditions of Business of the Business Client shall also not be made in the provision of the agreed service, its unconditional acceptance or payment of the agreed remuneration.
4. The Supplier is only legally bound by express written confirmation of the order or the following completion respectively delivery (Number "V"). Simple confirmations of receipt for orders etc. present no confirmation of the contract in the aforementioned sense. Any product descriptions or (PR) announcements of the Supplier are not binding offers as yet, but only a challenge to the Business Client to make a bid in this regard. Any other information or correspondence between the Supplier and the Business Client – unless there is a written agreement stating otherwise in an individual case – is not binding.
5. If the supplier finds out, after conclusion of the contract, that the Business Client is not a company in the sense of § 14 BGB, the supplier may declare withdrawal from the contract with an appropriate deadline.

II. Prices

1. The prices are, if not expressly otherwise agreed in writing, net prices in Euros from the Supplier's premises excluding packaging and dispatch costs and without discount. 2. All supplementary costs in the contract, such as financing, dispatch and packaging costs, fees, interest and similar are for the account of the buyer.
2. If the manufacturing or production costs of the Supplier increase significantly after conclusion of the contract, that is to say by a minimum of 10 %, the Supplier is entitled to make an appropriate price increase taking into account the interests of the Business Client.

III. Conditions of payment/ contract penalty/retention of proprietary rights/set-off prohibition.

1. The purchase price shall be paid before delivery (PRE-PAYMENT), if nothing other has been expressly agreed in writing.
2. All payments are made by the business customers via bank transfer / direct debit free of charge and without deduction. Cash payments of up to EUR 9.999 can only be received. Bills of exchange or other means of payment shall only be accepted after special express written agreement, and in every case only on account of performance. Collection costs and discount charges are for the account of the Business Client. The seller may decline payments offered by way of cheque or bill of exchange without giving reasons.

3. On exceeding the contractually agreed payment date in each case and on delay in acceptance, the Supplier is entitled to charge delay interest in the amount of 9 percentage points over the respective basic interest rate of the European Central Bank from the due date onwards - § 353 HGB -, whereby the Supplier reserves the right to prove that higher damages have occurred in an individual case. In case of sale to consumers, the interest is charged at a rate of 5 percentage points above the base rate of the ECB.
4. If the Business Client does not fulfil the contract the Supplier is entitled either to demand the sum of damages actually suffered and the lost profits or – alternatively and as he chooses – a contract penalty in an overall sum of 15% of the agreed purchase price. In the case of applying the contract penalty the Business Client retains the right to provide evidence that a significantly smaller damage or even no damage at all has been incurred.
5. All purchase items remain the property of the Supplier until the purchase price has been paid in full and all the obligations of the purchase contract have been fulfilled by the Business Client.
6. Insofar as the retention of proprietary rights is in place, no selling, pledging or collateral assignment by the Business Client is permitted, unless the Supplier has been informed immediately in advance and the supplier gives his express agreement in writing in an individual case. If a third party nevertheless buys the rights to the sold object of purchase under reserve, then the Business Client shall immediately assign all claims with all the subsidiary rights, which arise from the further sale/ legal purchase against the purchaser or third parties, and this regardless of whether the reserved products have been sold on without or after processing. As precaution the Supplier accepts the assignment of the claims already. Application of the claims is for the account of the Business Client.
7. Insofar as third parties access the purchase item delivered under retention of proprietary rights, the Business Client must inform the Supplier of this immediately in advance by email or fax and by means of a registered letter and suOpprt the Business Client in the application of the proprietary rights, as can be expected with the due care of an entrepreneur.
8. Insofar as the object of purchase is reshuffled with other objects of the Buyer or remodelled by third parties, that is to say mixed, blended, processed or changed in any other manner, this is always assumed to be on behalf of the Supplier. The entitlement of the Business Client to the object of purchase continues on the transformed item. If the object of purchase is processed with or inseparable from objects not belonging to the Supplier, the Supplier shall acquire co-ownership of the new object in the ratio of the objective value of the object of purchase compared to the other processed objects at the time of processing or binding. If the binding is undertaken in such a way, that the object of the Business Client must be regarded as the main object, then it is deemed agreed that the Business Client shall transfer pro rata co-ownership to the supplier. The Business Client shall isolate and secure the sole or joint ownership for the Supplier. For all the objects mentioned in Number 8 it further applies that the same regulations shall apply as for the delivery objects delivered under retention of proprietary rights.
9. For the duration of the retention of proprietary rights the object of purchase must be insured by the Business Client for its full value against all risk, including fire at his own cost.
10. The Business Client further has the obligations to maintain the object of purchase in orderly condition during the retention of proprietary rights and to have all necessary repairs done immediately - apart from emergencies – in the repair workshops of the Seller or in a third party workshop recognised by the Supplier.
11. In case of payment delays of breach of another significant contract regulation by the Business Client, the supplier is entitled to withdraw from the contract immediately pursuant to § 449 sub-section 2 BGB.
12. The Business Client shall declare his agreement that payments shall initially be set-off against repair costs, then against replacement parts claims, then against interest and other supplementary claims and finally only on the products under proprietary rights. On current account the retention of proprietary rights services to secure the balance due. Furthermore § 366 BGB shall apply.
13. The retained ownership shall be released by the supplier, as soon as and insofar as its realizable value enduringly exceeds the claim against the Business Client by more than 20 %.
14. Setting off assumed counterclaims of the Business Client against the Supplier or the practice of retention rights against the Supplier are excluded. This shall not apply to legally titled or to claims unopposed by the Supplier.

IV. Conditions of Delivery

1. Delivery dates, if they have not been expressly and firmly agreed in writing as fixed, remain without obligation. The delivery date begins at the earliest with delivery of the basis vehicle at the supplier's premises, however not before payment of the first installment, and on the condition of punctual and orderly delivery to ourselves.
2. In case of an agreed amendment to the contract the Supplier is entitled to re-determine the delivery date. The supplier retains the right at all time of making changes to construction and form during the delivery time. Information in the descriptions of performance, weights, operating costs, speeds etc. is to be regarded as approximate. Neither assured product characteristics nor property agreements are concerned here – not guarantees.
3. In case of repairs, rebuilds, bodywork changes or modifications to any of the parts and any scrap materials shall become the property of the Supplier without the requirement for a separate understanding of the Business Client.
4. The Supplier retains the right to withdraw from the contract also in the case that circumstances of the financial situation of the Business Client become known, which indicate that the claims of the Supplier seem no longer to be sufficiently assured.

V. Fulfilment/ Risk transfer and Conditions of acceptance

1. Fulfilment of the delivery ex works occurs with issue of the report of the willingness to deliver to the Business Client. The Business Client shall check and accept the object of purchase after he has received notification of the readiness at the agreed place of collection – if not otherwise agreed – pursuant to § 377 HGB in person or by third parties contracted by him. If notification of defects is not received from the Business Client without 8 days of the report of the willingness to send, then the object of purchase is deemed to have been accepted and free of defects.
2. Fulfilment of delivery to an agreed place of delivery occurs with the dispatch ex works. The Business Client shall check and accept the object of purchase after he has received notification of the readiness at the agreed place of collection pursuant to § 377 HGB in person or by third parties contracted by him. If notification of defects is not received from the Business Client without 8 days of the report of the willingness to send, then the object of purchase is deemed to have been accepted and free of defects.
3. Any complaint must be made by the Business Client to the Supplier in writing, specifying the nature and extent of the defect, so that the Supplier can make an evaluation of the eligibility of the defect, If the Buyer waives the test expressly or implicitly, the object of purchase shall be deemed duly delivered and accepted.
4. All risks, also those of accidental loss, transfer to the Business Client at the time of fulfilment (Numbers and 2 here), who must ensure the necessary insurance at this own cost.
5. At the time of fulfilment (aforementioned numbers 1 and 2) the object of purchase shall be transferred in the sense of the product liability law to the authority of the Business Client and thus deemed to be brought into traffic circulation.
6. Insurance protection shall only be taken on by the Supplier insofar as this has been expressly agreed in detail in writing. This shall apply also to modifications or repairs to the delivered vehicle from the time of takeover to the time of fulfilment. If the supplier has determined a pick-up deadline and this is exceeded by the Buyer, then a reasonable slotting fee can be charged the sum of which will be at the discretion of the Supplier pursuant to § 315 BGB.

VI. Guarantee/ Time-Barring

1. The supplier shall afford the Business Client as the first Buyer a guarantee that the object of purchase is free of faults and defects according to the state of the art at the time of fulfilment (Number "V").
2. Guarantee claims shall only be considered if the Business Client has fulfilled the complaint obligations in the sense of Number "V".
3. The presumption provisions of § 476 BGB are excluded. The existence of a defect at the time of the risk transfer (Number "V") must thus be proved by the Business Customer.
4. Insofar as a defect in the object of delivery exists thereafter, the supplier is at liberty to select either removal of the defect or replacement delivery. Hereby the Supplier must pay the necessary costs for the purpose of the repair

pursuant to § 439 sub-section 2 BGB. If the Business Client hereby applies costs for the use of his own employees or objects, these shall be limited to the Business Client's own costs.

5. The Business Client's right of withdrawal from the contract on grounds of the defectiveness of the object of purchase is excluded insofar as the Business Client is not in a position to return the previously received services and this is not based on that fact that return of the received services is impossible or is the fault of the Supplier, or that the defect only showed up at the processing or transformation of the object of purchase.
6. Insofar as the Business Client has sold on the object of purchase to a consumer in the sense of § 13 BGB in the framework of multi stage product sales, and had to take back the object of purchase from the consumer or the consumer decreased the price paid to the Business Client, the Business Client has the option of demanding defect removal or replacement delivery, or withdrawal from the contract or to decrease the price paid to the Supplier. The aforementioned numbers 4 and 5 shall not apply in this case.
7. The guarantee shall be voided if the Buyer does not follow the regulations of the Supplier on the operation of the object of purchase (in particular operation manuals) and in particular does not have the inspections prescribed in the customer service booklets issued by the Supplier done in an orderly manner.
8. The guarantee shall be voided especially also if the permissible gross weight or the axle load or the load capacity the purchase contract is based on or the chassis parts capacity are exceeded, furthermore also in cases of natural wear and damage of the object of purchase, attributable to negligence and/or improper handling by the Business Client or by third parties.
9. Guarantee claims against the Supplier are time-barred within a year from fulfilment/transfer of risk pursuant to section "V", unless there is a case of multi stage product sales in the sense of the above number 6. In this case the legal time-barring deadline pursuant to § 438 BGB shall apply.

VII. Damage Compensation and Product Liability

1. The Supplier is liable in the framework of the legal regulations in the full amount of damages arising from injury to life, body or health based on a breach of obligations by the Supplier, its legal representative or vicarious aides.
2. Similarly the Supplier is liable in the framework of the legal regulations for such damages that are based on intentional or grossly negligent breach of obligations by the Supplier, its legal representatives or vicarious aides.
3. If other damages in the sense of the above number 2 are only based on simple negligence, the Supplier is only liable for breach of so-called cardinal obligations (that is to say obligations in the mutual sense, the fulfilment of which enables the orderly carrying out of the contract in the first instance and on the adherence to which the Business Client should be able to trust/ rightfully trust) and only for typical contract damages, which were foreseeable at the time of concluding the respective contract and which are regularly equivalent to the price of the object of purchase, so that damage compensation on grounds of late delivery, of supplementary damages, indirect or direct damages, lost profits, damages for loss of production, monetary or exchange rate losses and lost interest are excluded.
4. The object of purchase only offers the security, which on basis of licensing regulations, operating instructions, the Supplier's regulations on the handling of the object of purchase (user manual) – can be expected, in particular in view of the prescribed examinations. The Business Client is obliged to adhere to all the regulations with regard to the object of purchase – also those of the manufacturer – and only to use the object of purchase including parts and software for the purpose for which they are intended.
5. Damage compensation claims against the Supplier shall be time-barred within a year of fulfilment / transfer of risk pursuant to section "V", unless there is a case of multi stage product sales in the sense of the above number 6. In this case the legal time-barring deadline pursuant to § 438 BGB shall apply.

VIII. Development services / rights and exploitation

If the Supplier is contracted with the provision of development services – of any kind whatsoever - , The regulations described in detail in the following shall apply in addition to those determined above.

1. The rights on the results of developments and any manufactured prototypes are exclusively those of the Supplier. This applies in particular to all copyright and/or exploitation rights to plans, formulae, technical drawings and

documentation, as well as to the knowledge and information thereby gained. The Supplier further has the rights to manufacture the rights and the results of developments under normal service conditions, to bring them into circulation, keep them for sale, to use or exploit in any other way.

2. The Business Client is obliged for an unlimited time to keep the circumstances mentioned in number 1 secret from third parties and external persons. He may use the results of developments, all prepared documents, as well as the knowledge and information thereby gained exclusively for assessing and valuation of the results of development and shall without limitation desist from any other use and transfer to third parties.
3. If the Business client desires a manufacture or exploitation of the results of development under normal service conditions, the closer implementation, the range of the rights to be purchased and the sum of the license fees and other remuneration must be set forth separately to this contract in writing.
4. If applicable, all the licenses necessary for exploitation of the results of development, regardless of whether they are known about or not at this time, must be acquired by the Business Client, if applicable for his own account and for his own risk; any liability of guarantee from the Supplier – of any kind – is not in place and is expressly excluded.
5. If no agreement can be reached between the contract parties on the exploitation of the results of development, the rights in the since of number 1 shall remain solely and completely with the Supplier.
6. The Business Client is obliged to comprehensively cooperate and work with the Supplier during the entire development term and thereby, where possible, to promote the provision of the development services by the Supplier. In particular the Business Client shall provide the Supplier immediately upon request with all the demanded information, specifications, plans and other technical documentation – of any kind -, which are deemed to be necessary or advantageous by the Supplier to achieve as good as possible a development result. The Supplier shall treat these documents and information with the strictest confidentiality.
7. The Supplier shall make efforts to perform the development activities within the agreed deadlines in each case. If during the development activity the Supplier can envisage that he will not be able to adhere to the agreed timeframe, he shall inform the Business Client accordingly; the contract parties shall then agree an appropriate extension to be made for the supplier, taking into account the assessments of the Supplier.
8. The Supplier shall make efforts to perform the development activities within the agreed deadlines in each case. If during the development activity the Supplier can envisage that he will not be able to adhere to the agreed timeframe, he shall inform the Business Client accordingly; the contract parties shall then agree an appropriate extension to be made for the supplier, taking into account the assessments of the Supplier.
9. If inventions are made in the course of its development activities the Supplier is entitled to have these inventions protected at its own cost in its sole discretion by patent, utility model law nationally and/or internationally. In the case that the supplier decisions not to have the invention protected, the Business Client is entitled to apply for a patent or utility model from the Supplier. In this case the Business client shall repay the Supplier all costs, fees and expenses arising in this connection.

IX. Choice of law/ Place of Jurisdiction/ Requirement for the written form

1. Exclusively the material and procedural law of the Federal Republic of Germany shall apply under complete exclusion of the Un-purchase law (CISG).
2. The exclusive place of jurisdiction for all disputes arising from the contractual relationship as well as the conclusion and effectiveness of the contract is Rostock, if the Business Client is a merchant, a legal entity under public law or a public law special fund.
3. Agreements between the parties require the written form to be valid. This shall also apply in the case of changing or removal of the requirement for the written form itself.
4. Observing the written form it shall suffice – in deviation from §§ 127 sub-section 3, 126a BGB – also to give a declaration by email, if the other party in each case is recognisable as being the author and the declaration does not have an electronic signature. The user sending an email not with the electronic signature pursuant to §§ 127 sub-section 3, 126a BGB must argue the content of the declaration to be correct and waived in the event of a legal dispute to the objection that the declaration was not made by him with the appropriate content to the named addressee at the time shown in the statement.

X. Alternative Dispute Resolution (§ 36 VSBG)

1. Oberaigner Automotive GmbH is not committed and ready to take part on Dispute Resolution on a consumer arbitration board.

<https://webgate.ec.europa.eu/odr/main/index.cfm?event=main.home.chooseLanguage>

XI. Final provisions

If one of the aforementioned conditions is ineffective or void or should a gap in the regulations should be found later, that the parties thought of filling with a regulation, this shall not affect the validity of the remaining conditions. In place of the ineffective or void condition or gap in the regulations the legal regulations shall apply, unless the parties individually agree something other in a legally effective way.