



1. General Terms

- 1.1. Our Sales Terms shall apply exclusively; we do not recognise the Buyer's standard business terms contradicting or diverging from our own Sales Terms, unless we have expressly consented to their application in writing. Our Sales Terms shall also apply even in cases where we have carried out deliveries without reservation while being aware of the Buyer's terms diverging from our Sales Terms.
- 1.2. All agreements arrived at between ourselves and the Buyer for purposes of contract performance shall be set forth in writing in this Contract. No ancillary verbal understandings have been reached.
- 1.3. Our Sales Terms shall only apply in relation to entrepreneurs within the meaning of Section 14 of the Civil Code if the contract is part of the company's business operations, as well as applying in relation to legal entities of public law and separate public-law asset funds within the meaning of Section 310, paragraph 1 of the Civil Code.
- 1.4. Our Sales Terms shall also apply to all future transactions with the Buyer even if there is no repeated special reference to them.

2. Bid and documentation

- 2.1. Our bid shall be without obligation up through definite order confirmation.
- 2.2. The Buyer's order shall be a binding bid. We are entitled to accept that bid within two weeks by sending a written order confirmation. An order confirmation lacking a signature and indication of the signer's name generated by automatic equipment shall be deemed to be in writing. Where the order confirmation obviously contains errors, typos or calculation errors, it shall not be binding on us.
- 2.3. Our written order confirmation shall be definitive in regard to the scope of delivery. Changes in the scope of delivery shall only be valid if confirmed by us in writing. We reserve the right to make modifications in design and shape where such modifications are not significant and can reasonably be expected of the Buyer.
- 2.4. We unlimitedly reserve ownership title and commercial intellectual property rights to cost estimates, blueprints, samples and other documentation. Such documentation may only be made available to third parties upon our prior written consent. Upon our demand, all documentation under Sentence 1 must be returned to us, including all reproductions, or, where applicable, must be deleted or destroyed.
The technical data included (including information on weight and dimensions) have been generated with great care, with reservations made for errors. The same applies to all data in our sales documentation. Such information shall however not constitute any guarantee commitments; guarantee commitments shall in any case require express written confirmation on our part.
- 2.5. We also reserve the right to all modifications after order confirmation which are in the interests of technical progress.
- 2.6. We basically supply our centrifugal clutches and brakes as a complete unit. We are only prepared to supply the inside parts of clutches (centrifugal weights and hub) in cases where installation occurs between the engine and the transmission or where the counterpart is a part of the engine or transmission. Putting them to any other use shall require our express written confirmation.
- 2.7. For technical production reasons, we reserve the right to deliver overage or underage up to 5% of the scope of delivery. There shall be no refund in case of underage delivery.

3. Prices and payment terms

- 3.1. Unless otherwise emerging from the order confirmation, our prices shall be understood as being in euro (€) ex works including loading at the plant but exclusive of packing, freight, shipping, insurance, customs duties and the applicable statutory VAT.
- 3.2. Orders where fixed prices have not been agreed shall be charged by us at the listed prices applicable on the date of delivery. The entry of the day's listed price applicable on the order form or in an order confirmation shall not be deemed to be the agreement of a fixed price.
- 3.3. For goods worth less than € 50 we charge a one-time minimum quantity surcharge of € 25.
- 3.4. We only accept the return of packing materials where we are legally obliged to do so under mandatory statutory regulations.
- 3.5. We reserve the right to raise our prices after a period of six weeks after signing of the contract if increases in price factors have occurred after conclusion of the contract, in particular in case of conclusion of collective bargaining agreements or a rise in the price of materials. We shall upon request prove the latter for the Buyer. This shall not apply if we are culpably in arrears with our deliveries.
- 3.6. Unless otherwise indicated in the order confirmation, the purchase sum shall be due payable immediately without any deduction. The deduction of an early payment discount shall require a special written agreement. We reserve the right to demand advance payment at any time. In cases of first-time orders we may also ship cash-on-delivery.
- 3.7. Unless other payment deadlines have been agreed, arrears with payment shall occur ten days after invoicing. Late payment interest at 8 percentage points above the base lending rate of the day shall be charged pursuant to Section 247 of the Civil Code. This shall not prevent the assertion of further damages.
- 3.8. Drafts and cheques shall only be accepted for purposes of payment; the costs of discounting and redeeming shall be borne by the Buyer. After acceptance of drafts we are entitled to return the same if their acceptance has been refused by the Land Central Bank.
- 3.9. The Buyer shall only be entitled to setoff where its counterclaims have been definitively adjudicated, are uncontested or have been recognised on our part. Moreover, the Buyer shall only be entitled to exercise a right of retention if its counterclaim is based on the same contractual relationship. The Buyer shall not be entitled to any right of retention



- due to partial performance under Section 320, paragraph 2 of the Civil Code.
- 3.10. Where delivery or services free of VAT is possible, the Buyer shall be obliged to provide the required proof or to cooperate in producing the same. For intra-Community deliveries under Section 6a of the VAT Act, the Buyer must indicate its VAT ID number, prove its character of being an undertaking as well as cooperate in providing export certificates for accounting and receipt purposes.
Where the exemption from VAT is not recognised by the revenue office, the Buyer shall hold us harmless against claims for VAT, interest, late payment surcharges and other indirect costs or must reimburse us for the same unless we are responsible for such non-recognition.
We shall only be obliged to seek legal recourse upon the demand of the Buyer if the latter besides exemption under the paragraph above also pays a reasonable advance on litigation costs.
- 3.11. Should we after accepting the order become aware of circumstances suggesting justified doubts as to the Buyer's solvency, then we shall be entitled prior to delivery to demand full payment or corresponding security or, after a deadline has passed in vain, withdraw from the contract.
Besides payment arrears that have already occurred, the following shall in particular be deemed to be proof of substantial deterioration of financial condition: information from a bank, a credit agency or a company having business dealings with the Buyer meeting the reasonable criteria of a prudent merchant.
Where delivery has already occurred, the invoiced amounts in question shall fall due for payment immediately with regard to agreed payment terms and, where applicable, with return of accepted drafts.
- 3.12. Item 3.11 shall apply mutatis mutandis for individual calls for delivery of goods on the basis of master contracts. After a deadline has passed in vain pursuant to Item 3.11, we may withdraw from the master contract serving as the basis.
- 3.13. Payments with the effect of extinguishing debts may only be made to the company. Our employees and agents are not entitled to collect payment without written authorisation.
- 4. Delivery deadlines and late delivery**
- 4.1. Delivery deadlines commence with the date of order confirmation but not, however, prior to timely and proper fulfilment of all of the Buyer's obligations, in particular not before the Buyer has provided the documentation, permits and clearances it is required to produce or before the agreed down payment has been received.
- 4.2. The delivery deadlines cited in order conformations are tentative deliveries on the last working day of the calendar week indicated.
- 4.3. Delivery periods and deadlines shall be deemed to have been kept by their expiry if the delivery item has left the plant or the delivery warehouse or readiness to ship has been announced. This shall not apply if taking of delivery has been stipulated or if an obligation to install has been agreed.
- 4.4. In case of delivery periods and deadlines not expressly designated as "fixed" in the order confirmation, the Buyer may only set an appropriate second deadline for delivery or performance for us if the original one has been exceeded. Only upon expiry of the second deadline can we be held to be in arrears.
- 4.5. Any subsequently requested modifications by the Buyer shall have the effect of suspending delivery periods and deadlines up through definite clarification of the modification requested. Subsequently, a new appropriate delivery deadline shall start to run.
- 4.6. We reserve the right to make proper and timely delivery ourselves.
- 4.7. In the event of force majeure or other unforeseeable or extraordinary circumstances for which we are not responsible such as operational breakdowns, strikes, lockouts, regulatory interference, energy supply difficulties, etc, the delivery period shall be extended for the duration of the obstruction and for an appropriate start-up period, if we are prevented from meeting our obligations on time. This shall also apply if those circumstances occur with our sub-suppliers. In more important cases, we shall inform the Buyer as soon as possible of the beginning and end of such circumstances.
Should delivery or service become impossible or unreasonable to expect due to the circumstances cited then we shall be exempted from our obligation to deliver.
Should the delivery period be extended or if we are exempted from our obligation to deliver then the Buyer may not derive any damage compensation claims hereon. As soon as we are exempted from the obligation to deliver, we shall refund any advance payments the Buyer may have made.
We are entitled to withdraw from the contract if an obstacle under Paragraph 1 persists for more than four months and if due to that obstruction we no longer have an interest in performance of the contract. At the Buyer's demand, we shall state after the end of the deadline whether we wish to avail ourselves of our right to withdraw from the contract or deliver the goods within an appropriate period of time.
- 4.8. If we should be in arrears with delivery, the Buyer shall be entitled, provided it can credibly show that it has incurred damages, to demand for every complete week of arrears flat-rated late delivery compensation in the amount of 0.5% of the delivery's value up to a maximum of 5% of the value of the entire delivery. Further damage compensation or expense reimbursement claims of the Buyer due to late delivery shall be expressly barred.
This shall not apply where the arrears in delivery are due to violation of an essential contractual obligation or where in cases of deliberate intent or gross negligence or for injuries to life, limb and health there is mandatory liability; this shall not entail any modification in the burden of proof to the Buyer's detriment.
- 4.9. The Buyer's legal right to withdraw from the contract shall remain unaffected but shall presuppose that we are responsible for the delay. The Buyer shall be obliged, upon our demand, to state within an appropriate period of time



whether it is withdrawing from the contract due to delay in delivery when the period of time is exceeded and/or wishes to demand damage compensation in lieu of performance or reimbursement of expenses or is insisting on delivery.

- 4.10. Where shipping is delayed at the request of the Buyer or due to a circumstance for which the Buyer is responsible, then we shall charge, beginning one month after notification of readiness to ship, for costs incurred by storage. However, we are entitled, after setting an appropriate deadline and having it pass and after corresponding prior notification, to dispose of the delivery item in another way and to deliver to the Buyer under an appropriately extended deadline.
- 4.11. Our deliveries, in case of arrears in delivery as well, are made at the expense of the Buyer.
- 4.12. Where we have signed a master contract with the Buyer for future deliveries with fixed delivery dates and the Buyer does not call for delivery of the goods in time, then after setting an appropriate second deadline and having it pass in vain, we shall be entitled to deliver and invoice the goods, to withdraw from the contract or, where the Buyer has acted culpably, to demand damage compensation in lieu of performance.
- 4.13. Should in the case of a master contract on future deliveries no fixed delivery deadlines have been set, then the Buyer must take delivery of all goods within twelve months from the date of order confirmation. Should the Buyer fail to take delivery of the goods within that twelve-month deadline, then we shall be entitled, after setting an appropriate second deadline and having it pass in vain, to deliver and invoice the goods, to withdraw from the contract or, if the Buyer has acted culpably, to demand damage compensation in lieu of performance.
- 4.14. Where we have consented in writing to an extension of the deadline for taking delivery, a new determination of quantity discounts shall be undertaken with retroactive effect for the entire master contract according to the number of units delivered on time.
- 4.15. Where we have consented in writing to an extension of the deadline, we are entitled for future deliveries under the master contract to increase prices appropriately if, due to extension of the deadline for taking delivery, increases in the price factors have occurred, in particular in case of conclusion of collective bargaining agreements or a rise in the price of materials. We shall upon request prove the latter for the Buyer.

5. Delivery, passing of risk and shipping

- 5.1. Partial deliveries shall be admissible to a reasonable extent. Any eventually increased costs incurred by this shall be at our expense, unless the partial deliveries have been made at the Buyer's request.
- 5.2. Risk shall pass to the Buyer upon handover to the shipper or freight hauler but at the latest upon leaving the plant or the warehouse. This shall also apply where carriage paid has been agreed. Shipping shall be on assignment from the Buyer.
- 5.3. If shipment is delayed as the result of circumstances for which the Buyer is responsible then risk shall pass to the Buyer as of the date of readiness to ship. However, we shall be obliged at the request and expense of the Buyer to take out the insurance policies the latter demands.
- 5.4. At the Buyer's request, we shall insure the shipment at the latter's expense against theft, breakage, shipping damage, fire and leakage as well as against any other insurable risks.
- 5.5. The delivered goods shall be accepted by the Buyer without prejudice to its defect claims if the goods show evidence of insignificant defects.

6. Retention of ownership title

- 6.1. We reserve our ownership title to the delivery item up through receipt of all payments in the business relationship with the Buyer. In case of actions in violation of the contract by the Buyer, in particular payment arrears, we are entitled to retake the delivery item. The Buyer shall in that case immediately provide us or our agents access to the goods to which we retain title and shall release them. Retaking or assertion of retained title shall not require us to withdraw from the contract. Such actions or our mortgaging of the delivery item shall not constitute any withdrawal from the contract unless we have expressly stated so in writing. After retaking the delivery item we shall be entitled to dispose of it commercially. The proceeds of such commercial disposal shall be credited against the Buyer's liabilities, minus appropriate liquidation costs.
- 6.2. The Buyer shall be obliged to treat the delivery item with care and upon our demand to take out adequate damage insurance on it for the duration of the period of retained title. The Buyer hereby assigns to us its claims against the insurance company.
- 6.3. In case of distraint or other third-party intervention, the Buyer must immediately inform us thereof in writing so that we can initiate action under Section 771 of the Civil Procedure Code. Where the third party is not in a position to reimburse us for the legal costs and court fees of litigation under Section 771 of the Civil Procedure Code, then the Buyer shall be liable to us for the loss incurred.
- 6.4. The Buyer shall be entitled to resell the delivery item in the course of its proper business; however, the Buyer hereby assigns to us all claims in the amount of the final invoiced sum (including VAT) accruing from resale to its customer or to third parties and, more specifically, regardless of whether the delivery item is resold with or without any further processing. The Buyer shall remain entitled to collect on such claims even after assignment; our entitlement to collect on the claim ourselves shall not be prejudiced by this. However, we obligate ourselves not to collect on the claim as long as the Buyer complies with its payment obligations out of the revenues collected, is not in arrears with payment and, in particular, no motion for initiation of insolvency proceedings has been filed and payments have not been suspended. Where the obligation not to collect lapses, we may then demand that the Buyer disclose to us the



claims assigned and the identity of their debtor and provides all required information, surrenders related documentation and informs debtors of the assignment.

- 6.5. The processing or conversion of the delivery item by the Buyer shall at all times be deemed to have been undertaken on our behalf. Where the delivery item has been processed with other objects to which we do not have title, then we shall acquire co-ownership in the new object in the ratio of the delivery item's value to the other objects with which it is processed at the time of such processing. The same shall moreover apply to the object created by processing as applied to the object delivered with retained title.
- 6.6. Where the delivery item is inseparably commingled with other objects to which we do not have title then we shall acquire co-ownership in the new object in the ratio of the delivery item's value to the other objects with which it has been commingled at the time of such commingling.
Where commingling occurs in such a way that the Buyer's object is deemed to be the main object, then it shall be deemed to be hereby agreed that the Buyer shall transfer pro rata co-ownership to us. The Buyer shall hold the sole or co-ownership title thus created on our behalf.
- 6.7. To secure our claims, the Buyer hereby assigns to us all of the claims to which it is entitled in relation to third parties (including subsidiary rights) incurred by the Buyer from combining the delivery item with a real estate plot.
- 6.8. We hereby obligate ourselves to release securities to which we are entitled upon demand by the Buyer where the liquidatable value of our securities exceeds the claims secured by more than 15% with the choice of securities to be released being at our option.
- 6.9. The Buyer hereby declares its agreement that title retention where legally admissible will be reported and, where applicable, registered at the Buyer's expense with the body having jurisdiction (notary, court, etc).
- 6.10. Where the law in the territory where the delivery item is located does not permit title retention, we may exercise all rights to the delivery item that we may retain. The Buyer shall be obliged to cooperate in measures that we wish to take to protect our ownership rights or, in lieu thereof, other security rights in the delivery item.
- 7. Physical and legal defects**
- 7.1. We perform the services assured in accordance with state-of-the-art technology at the time of commissioning as well as in accordance with relevant legal regulations and while observing the care conventionally applied in our industry.
- 7.2. Where our performance is flawed by a physical or legal defect (hereinafter: defect) the cause of which was present as early as when risk passed, the Buyer may at our option lay claim to subsequent fulfilment through subsequent improvement or replacement delivery.
In the case of subsequent improvement, we shall only bear the expenses up to the amount of the purchase sum. Replaced parts shall become our property and must be returned to us.
- 7.3. Should subsequent fulfilment fail then the Buyer shall at its option be entitled, without prejudice to any eventual damage compensation or expense reimbursement claims under Item 8, to reduce consideration or, where the violation of obligations is significant, to withdraw from the contract.
- 7.4. A prerequisite for our liability for defects is that
 - a) the latter are not due to improper usage, faulty installation or commissioning, negligent treatment or the use of unsuitable supplies or replacement materials by the Buyer or by third parties, natural wear-and-tear, faulty construction work, chemical electrochemical or electrical impacts, provided that such circumstances are not attributable to culpability on our part.
 - b) the Buyer has duly complied with its obligations to inspect and notify defects pursuant to Section 377 of the Civil Code. Defects must therefore be reported in writing within five working days of receipt of the delivery item at the delivery venue or, if the defects were not recognisable with proper inspection, within five working days of their being discovered.
 - c) the Buyer is not in arrears with payment, with due account taken of appropriate warranty retention pursuant to Item 7.8.
 - d) the Buyer has sent us the purchase item to ascertain the justice of the defect complaint. For any eventual expenses, we refer here to Items 7.2 and 7.8.
- 7.5. The Buyer must, after consulting with us, provide the required time and opportunity to make all improvements and replacement deliveries that appear necessary according to our fair assessment. We shall otherwise be released from responsibility for the consequences of damages occurring because the Buyer has not provided us with the required time and opportunity to carry out the necessary measures to remedy the defect or deliver replacements. Only in urgent cases where operational safety is in jeopardy or to ward off disproportionately serious damage, in which case we must be notified immediately, or if we are in arrears with remedy of the defect, shall the Buyer be entitled to remedy the defect itself or have it remedied by third parties and demand reimbursement of the necessary costs from us.
- 7.6. Defect claims shall be statute-barred after twelve months. This shall not apply if they are due to deliberate actions attributable to us or where under Sections 438, paragraph 1, number 2 (edifices, objects for edifices), 479, paragraph 1 (recourse claims), 634a, paragraph 1, number 2 (construction flaws) of the Civil Code longer statutes of limitation have been provided for. We shall only be liable for replacement parts or subsequent improvement up through the end of the statute of limitations applicable to the original delivery item.
- 7.7. The Buyer's shall only have recourse claims on us under Section 478 of the Civil Code where the Buyer has not



reached any agreements with its customer going beyond statutory defect claims. Item 7.2, sentence 2 shall apply mutatis mutandis. Where the Buyer is held liable for a defect of the newly produced delivery item, it is obligated to inform us of this immediately. It must put its customers under a corresponding obligation provided that the latter are entrepreneurs. We reserve the right to satisfy claims asserted by the customer against the Buyer by acting in the matter for our own account. In that case, satisfaction of the customer's claims shall be deemed to be satisfaction of the Buyer's claims.

- 7.8. For defect claims, the Buyer may only withhold payments to an extent standing in an appropriate relationship to the defects appearing if the Buyer's claims are undisputed or have been definitively adjudicated. Where defect complaints have been made without justification we shall be entitled to demand reimbursement from the Buyer of expenses incurred.

8. Damage compensation and expense reimbursement claims

- 8.1. We shall be liable under statutory regulations where the Buyer asserts damage compensation or expense reimbursement claims (hereinafter: damage compensation claims) due to deliberate intent or gross negligence, including the deliberate intent or gross negligence of our representatives or agents.

We shall moreover be liable under statutory regulations if we have violated an essential contractual obligation as well as in cases of injury to life, limb or health and where guarantees have been assumed.

- 8.2. Damage compensation for violation of an essential contractual obligation shall be limited to foreseeable typically occurring damages unless it be a case of deliberate intent or gross negligence or unless there is liability for injury to life, limb or health or due to guarantees assumed. In such cases, damage compensation claims shall be statute-barred after twelve months.

- 8.3. Damage compensation liability shall otherwise, and without regard for the legal nature of the claim asserted, be expressly barred. We shall therefore not be liable for damages that have not been caused to the delivery item itself such as the Buyer's loss of earnings or other financial damages.

- 8.4. The mandatory provisions of the Product Liability Act shall not be affected by this.

- 8.5. The Buyer's expense reimbursement claims shall be limited to the amount of the latter's interest in performance of the contract.

- 8.6. Where our liability has been expressly barred or limited then this shall also apply to the personal liability of our employees, representatives and agents.

9. Supply of software

- 9.1. Where software is supplied, the Buyer shall also be granted a non-exclusive and non-transferable right to use of the software and the accompanying documentation for operation of the goods for which the software has been supplied. Apart from making a backup copy, the Buyer may not produce any reproductions of the software. Copyright notices, serial numbers as well as other features serving to identify the software may not be removed or modified.

- 9.2. The Buyer shall be obliged to prevent access to the software and the documentation by unauthorised third parties by taking suitable precautions. It shall store the original data media supplied as well as the backup copies in a safe place secured against access by unauthorised third parties. Its employees shall be explicitly advised of compliance with these Delivery Terms as well as with the provisions of copyright law.

- 9.3. Our liability for loss or modification of data shall be limited to the typical restoration expenses that would have been incurred in case of regular generation of backup copies commensurate with the dangers involved.

10. Venue of performance, forum of jurisdiction and applicable law

- 10.1. The transfer of the Buyer's rights and obligations to third parties shall only be possible with our written consent.

- 10.2. Venue of performance for delivery shall be the production plant or our delivery warehouse. Venue of performance for payment shall be our registered offices.

- 10.3. The proper forum of jurisdiction shall be the courts having jurisdiction over our registered offices. However, we shall be entitled to sue the Buyer before any other forum of jurisdiction as well.

- 10.4. The contract shall be subject to the laws of the Federal Republic of Germany and to the rules of private international law with the provisions of the United Nations Convention on the International Sale of Goods expressly barred.