

General Terms and Conditions of Sale, Delivery and Payment

1. Preamble

These General Terms and Conditions of Sales, Delivery and Payment are applicable to all orders, deliveries and services of the company Wagon Automotive Nagold GmbH – hereafter referred to as the Supplier.

Any alteration to these Terms and Conditions must be made in writing and must be signed by both contractual partners. Even if we do not respond to alterations or proposed alterations to the conditions submitted by the Supplier in writing, this does in no way constitute the acknowledgement of such conditions.

The contractual relationship is subject solely to German law. Should individual clauses in the Terms and Conditions be or become invalid, the validity of the remaining provisions shall remain unaffected. The invalid clause(s) shall be substituted by a valid legal provision that reflects as closely as possible the legal and economic purpose of the invalid provision(s).

2. Tenders / Order confirmations

All cost estimates are non-binding. Documents such as diagrams, sketches, drawings, statements of expenditure etc. shall only be binding when expressly stated as such in writing. The scope and content of the contractual relationship shall be determined by the written order confirmation of the Supplier.

Verbal amendments or supplementary agreements shall not be binding for the Supplier. Any fees incurred through the amendment or cancellation of a contract shall be borne by the Purchaser.

When it transpires during the course of order execution that an amendment to the order is required for technical or other reasons, then the Supplier reserves the right to carry out the order to the extent that is deemed to be in the best interest of the Purchaser according to the Supplier's own professional judgement.

Written approval shall be required from the Purchaser to increase the scope of the order. Should the Purchaser not approve such an amendment, then the Supplier reserves the right to invoice the services rendered or work already executed and to reject any further processing of the order.

3. Plans and documentation

Design documents, process descriptions, layouts and plans shall remain the intellectual property of Wagon Automotive Nagold GmbH.

4. Delivery

In the absence of any written agreement to the contrary, all services and deliveries of the Supplier shall be ex works. All due delivery dates agreed in writing shall be binding. The delivery period shall commence at the latest on the following dates:

- a) the date on which an order is placed in writing.
- b) the date on which the Buyer has complied with all technical, commercial and financial preconditions for which the Buyer is responsible under the contract
- c) the date on which the Supplier receives a payment on account due prior to the delivery of the goods and/or on which a payment guarantee is issued or otherwise provided.

The Supplier reserves the right to hold back the delivery until there is clarity regarding all measures to be taken by the Purchaser influencing the scope of the delivery. The Supplier shall furthermore reserve the right to bill the Purchaser for any (additional) expenses incurred by this.

If the delivery or service must be provided later than originally agreed upon the request of the Purchaser, or for reasons which lie within the Purchaser's sphere of influence, then the Supplier reserves the right to adapt the price to reflect any alteration in manufacturing costs or other cost factors that may have occurred in the meantime.

The Supplier reserves the right to make partial deliveries and premature deliveries.

Where a delivery is delayed through a circumstance arising on the part of the Purchaser but for which the Purchaser is not responsible, a reasonable extension of the original delivery period shall be granted.

Where the Purchaser fails to accept the goods provided in accordance with the contract at the agreed destination or at the due time stipulated in the contract, and where the delay is not attributable to an action or omission on the part of the Supplier, the Supplier may place the goods in storage at the risk and expense of the Purchaser. The Supplier shall also be entitled to demand reimbursement of any additional expenditure incurred to the Supplier through fulfillment of the contract from the Purchaser, independently of any other claims for damages to which he is entitled owing to the delay.

Where the delivery destination lies outside the internal EU market, the Purchaser shall be obliged to apply for all permits required for import and to inform the Supplier when the latter have arrived in order to avoid delays in order completion.

Moreover, if delays arising from the above interrupt agreed delivery schedules then the Purchaser shall be liable for the failure to deliver contractual obligations and for any delays and damages that result thereof. If the Supplier is unable to transfer the goods owing to statutory import restrictions then the Purchaser shall be obliged to compensate the Supplier for any resulting damages.

5. Force majeure

If the Supplier should be or become unable to deliver the goods or services as pledged for reasons of force majeure then the Supplier shall reserve the right to withdraw from the contract either partially or in full; in such cases the Purchaser shall not be entitled to claim compensation from the Supplier.

6. Delivery acceptance & inspection

The Purchaser is obliged to carefully examine goods immediately after receipt and to report damage immediately if applicable, otherwise the goods (contractual object) shall be deemed to have passed inspection. The Purchaser must immediately make a written record on the delivery document if goods show visible defects or are inaccessible for inspection upon arrival despite having been labeled as accessible on the delivery note, otherwise he shall be deemed to have accepted the goods or service.

7. Prices

All prices are ex works and net (ex VAT) excluding packaging unless agreed otherwise.

Prices stated in Supplier offers may be amended by the Supplier provided that the Purchaser is notified thereof four weeks before coming into effect.

8. Payment

Payments are to be made according to the agreed payment terms. Payment cheques will only be accepted in lieu of payment and for full reimbursement of expenses. Invoices for operating equipment are due for payment immediately following receipt without deduction. If the Purchaser defaults on an agreed payment or any other performance, the risk of accidental loss or accidental deterioration of the contractual object shall pass to the Purchaser.

Furthermore the Supplier shall be entitled to either demand completion of the contract or:

- a) delay fulfillment of the Supplier's own commitment until settlement of any outstanding payments or other obligations
- b) extend the delivery period accordingly
- c) demand payment of the outstanding purchase price in full
- d) charge default interest at the rate of 8% p.a. from the relevant due date
- e) or rescind the contract after having granted a reasonable grace period.

The Purchaser shall in all events refund to the Supplier any dunning charges and collection expenses incurred which constitute a further damage.

If the extension period expires without the Purchaser having made the due payment or fulfilled other outstanding obligations, the Supplier can withdraw from the contract by means of a written notice.

If the Supplier so requests, the Purchaser must return any goods already supplied to the Supplier at his own expense and risk and compensate him for the loss of value of the goods as well as for any expenses incurred by the Supplier in connection with the performance of the contract. In the case of installment of agreements for repayment, default on one installment shall be deemed as a missed payment target and shall result in the entire outstanding balance becoming immediately due and payable.

An offset with counterclaims as well as the retention of payment or services for any reason whatsoever by the Purchaser are excluded unless agreed to in writing.

9. Reservation of proprietary rights

The contractual item shall remain the exclusive property of the Supplier until all the obligations of the Purchaser arising from the General Terms and Conditions of Sale and Delivery, both financial and otherwise as agreed, have been settled. The Supplier shall reserve the right to remove or collect the delivered goods without initiating proceedings or submitting any claims to a court.

The Supplier reserves the right to affix his ownership mark on the exterior of the contractual item.

The Purchaser shall comply with the required formal regulations to safeguard the reservation of ownership. In the event of an attachment of property or other claims, the Purchaser shall be obliged to enforce the ownership rights of the Supplier at his own expense and to inform the latter with immediate effect.

The resale of the contractual item delivered by the Supplier in new condition shall only be permitted for Purchasers who have been authorized accordingly by the Supplier in writing.

Claims against any existing insurance policies shall be deemed as assigned to the Supplier; the Purchaser shall inform the insurance company of the transfer of claims by registered post.

Should the Supplier take back the purchased item, this does not constitute a withdrawal from the contract unless the Supplier specifically declares this in writing.

After accepting the returned goods and selling them at the Purchaser's expense, the Supplier is entitled to deduct the proceeds of the sale from the liabilities of the Purchaser less any costs associated with the sale.

The resale of contractual goods subject to retention of title requires the written approval of the Supplier. By consenting the Purchaser transfers all rights arising from the re-sale of the goods and in particular to the service or payment of the purchase price to the Supplier and shall undertake to inform his contractual partners or debtors of this in writing, drawing their attention to the fact that debt reduction payments may only be made into the Supplier's account (details of which are to be provided).

The Purchaser shall be liable for all disadvantages caused to the Supplier or to the Purchaser himself through the assertion or enforcement of reservation of ownership.

10. Guarantee

Should delivered goods transpire to be defective, the Supplier shall as a first step be given the opportunity to sort out and repair damaged parts or supply a replacement prior to the start of production (processing or installation). Where the Supplier is unable to perform these actions, or should he fail to do so immediately, then the Purchaser shall be entitled to return the defective goods. In urgent cases the Purchaser shall be entitled to carry out the necessary repairs in-house or have them performed by a third party with the prior agreement of the Supplier. The Supplier shall be liable for any costs incurred hereby.

If a defect is only discovered after the start of production, despite compliance with the binding regulations under paragraph 6 (notification of defects), the Purchaser shall be entitled to claim compensation for additional expenditure only if specifically agreed in writing on an individual basis. The parts to be replaced by the Supplier shall be provided by the Purchaser to the Supplier without delay at the request and expense of the Supplier. The warranty shall expire 2 years after delivery. Warranty claims shall not apply if the damage arises through the disregard of operating instructions, servicing specifications and installation directions, incorrect or improper usage, faulty or negligent treatment and natural wear and tear as well as any interference with the delivered item on the part of the Purchaser or a third party.

Unless stipulated otherwise above, the warranty shall be in accordance with statutory provisions. Guaranteed characteristics must be individually recorded as such explicitly in writing.

If goods are produced on the basis of design instructions, drawings or models received from the Purchaser, liability shall not extend to the correctness of the design but merely to the fact that the contract should be fulfilled in accordance with the details provided by the Purchaser. Where additional and/or reused parts are provided to the Supplier, he shall neither assume any contractual warranty obligation nor any guarantee obligation.

11. Liability

It is explicitly stated herewith that the Supplier shall fundamentally only be liable for the compensation of damages to the Purchaser in the event of gross negligence. If any claims are raised against the Purchaser due to liability towards third parties pursuant to obligatory foreign law independent of responsibility, the Supplier is only liable to the Purchaser to the extent that he would assume the liability directly. The provisions of § 254 BGB (German Civil Code) shall apply accordingly for the internal settlement between the Purchaser and the Supplier. This shall also apply to claims made directly against the Supplier.

The obligation to pay damages shall be excluded insofar as the Purchaser has or could have effectively limited his liability to his customer. The Purchaser shall thereby endeavor to agree liability limitations as far as legally permissible also in favor of the Supplier.

All claims for damages due to defects in deliveries and/or performance which have not been recognized by the Supplier in writing must be filed in court within one year of handing over the contractual item or within one year after the defect has become recognizable, else the claims shall be deemed expired or barred.

The liability of the Supplier shall be excluded for any standstill in production, loss of profit, loss of use, loss of contracts and for other economic or indirect consequential loss whatsoever.

12. Data protection

The Supplier reserves the right to store, transfer, process and delete personal information concerning the Purchaser during the course of business. Both contracting parties agree to absolute confidentiality towards third parties concerning any other knowledge obtained from their business relations.

13. Models, matrixes, patterns, samples, tools and other manufacturing equipment as well as confidential information provided to the Supplier by the Purchaser or paid for by the latter in full, may only be used for deliveries to third parties after having obtained the prior permission of the Purchaser.

14. Court of jurisdiction/Place of performance

The place of performance for supply and payment shall be the registered office of the Supplier. The court of jurisdiction shall be the registered office of the Supplier.

Wagon Automotive Nagold GmbH, Nagold – Last revised 10/2012