

## General Terms and Conditions of Purchase and Delivery – S. Spiess Motorenbau GmbH

### Section 1 General – Scope

1. These General Terms and Conditions ("GTC") govern commercial/business transactions only and shall apply to all business relations between us and the Customer. Conditions of sale and delivery of customers shall only apply to the extent that we expressly agree to them in writing. Our GTC shall apply even if we are aware of any terms and conditions used by the Customer that contradict or deviate from our GTC and if we perform deliveries without reservation.
2. To the extent that the Customer is a business, a legal entity under public law or a public law special fund pursuant to section 310 paragraph 1 sentence 1 BGB (German Civil Code) (hereinafter "business"), our GTC (as amended) shall apply as a framework agreement for future delivery contracts with the same Customer, without any need of reference in each case. We will inform the Customer immediately about any changes to these GTC.
3. Individual agreements made with the Customer for specific cases (including collateral agreements, supplements and amendments) take precedence over these GTC.
4. Legally relevant declarations and notifications which are to be made by the Customer to us after the conclusion of contracts, such as deadlines, reminders, notices of cancellation, must be in written form.

### Section 2 Conclusion of Contract

1. Any quotes for goods manufactured and/or services to be provided by us (hereinafter "Goods") are subject to change. Our presentation of products or services is to be regarded as a guideline only and shall not constitute a binding offer; it is a non-binding invitation to the Customer to issue an order. Technical modifications and changes in form, color and/or weight shall remain within the limits of what can be reasonably expected.
2. By ordering the desired goods and/or services, the Customer declares a binding offer of contract. We will confirm receipt of the order immediately. This confirmation of receipt of the order does not constitute a binding acceptance of the order. The confirmation of receipt shall only constitute an acceptance if so expressly stated by us. The receipt of orders by telephone does not constitute a binding acceptance of the contract offer by us. A contract shall not be deemed concluded until we have issued a written order confirmation.
3. We are entitled to accept the contractual offer contained in the order within two weeks.
4. We reserve the right to transfer any of the contractual rights and obligations to one of the companies of Spiess Group.
5. The Customer may assign its rights under this contract to third parties with our prior written consent only. The same applies to assignments of claims against us. The statutory provisions of section 354 HGB (German Commercial Code) remain unaffected.
6. We reserve right of ownership and copyright to cost/price calculations, drawings, and other documentation. The same shall apply to our copyright, as far as these documents are protected under copyright law. Such documentation must not be made available to third parties. Section 9 of these GTC shall apply accordingly.
7. In case of our delivery of items according to samples, drawings, and models provided by the Customer, the latter shall ensure that industrial property rights of third parties are not infringed upon. The Customer is obligated to indemnify us against all third party claims for infringement of intellectual property rights; this also applies to any legal costs incurred by us in this respect. Furthermore, the Customer is required to make an advance payment to us to cover any legal costs.
8. Any documentation which is part of our offer, such as dimensions, weights, illustrations, drawings or other documents shall only be approximate unless they have been explicitly referred to as binding.

### Section 3 Retention of Title

1. For Customers deemed to be a business, we shall retain ownership and title of the contract goods until all payments have been received under the ongoing business relationship. For Customers deemed to be a consumer, we shall retain ownership until full payment has been received.  
We undertake, at the request of the Customer, to release the securities to which we are entitled to, if the value of our securities exceeds the value of the claims to be secured by more than 10%.  
The selection of the securities to be released shall be made by us. In the case of simple retention of title, the value of the securities shall be determined by our respective invoice amounts. In the case of assigned claims, by the amounts invoiced by the Customer for the resale.  
For goods that have undergone further processing, the value of the securities shall be determined by our intermediate goods price. This shall be notified to the Customer in writing, if the extended retention of title is enforced.

2. The Customer, until unconditional ownership is acquired, shall be under an obligation to handle the goods with care, and, if the Customer is a business, under a particular obligation to insure such goods at its own expense against damage by fire, water, or theft for their full replacement value. If servicing or maintenance work is required, the Customer shall arrange for this to be done punctually and at its own expense.  
The Customer must notify us immediately in writing about all actions by third parties regarding the goods, in particular any foreclosure measures, as well as possible damage or destruction of the goods. The customer shall immediately notify us of any change of ownership of the goods or change of Customer's address.  
The Customer shall reimburse us for all damages and costs resulting from the infringement of this obligation and shall pay all costs incurred by measures made necessary to fend off third party access to and/or intervention measures relating to the goods, provided that the Customer is responsible.
3. In case of a breach of contract or default in payment by the Customer we shall be entitled to demand the return of the goods. The recovery of goods constitutes a withdrawal from the contract on our part. Any proceeds from the sale of the goods, which we have taken back, shall be credited to the Customer's payment liability, less any reasonable disposal costs.
4. The Customer shall be entitled to resell the goods in the ordinary course of business. By accepting this GTC, the Customer agrees to assign to us any receivables which the Customer may have against a third party arising from the resale of the goods. We hereby accept this assignment. The Customer shall remain authorized to collect claims even after they have been assigned to us. However, this shall not prejudice our right to collect the claim itself, if the Customer does not meet his payment obligations and is in default.  
Any handling and processing of the goods by the Customer shall always be deemed to have been carried out on our behalf. If the goods are processed or combined with other goods by the Customer, we shall have co-ownership of the new product in proportion to the invoice value of the goods delivered by us. The same shall apply if the goods are processed or combined with third party objects. If the combination is carried out with the result that the Customer's product is regarded as the main component, it is hereby agreed that the Customer shall transfer pro rata co-ownership rights to us. The Customer shall store our property and/or co-owned property on our behalf. If the goods are leased by the Customer, the Customer shall transfer to us any claims in the amount of the invoiced amount (including value added tax) already now. Furthermore, the Customer assigns any claim for surrender against the lessee to us. We hereby accept these assignments. The Customer agrees to provide information and to submit business records of any contracts concluded.

### Section 4 Remuneration

1. Our prices are in EURO, net ex works, unless stated otherwise in the order confirmation and if the Customer is deemed to be a business. Our prices exclude specifically any VAT, duties and customs, insurance costs, transport and unloading costs and packing costs. VAT amounts are shown separately in the invoice according to the statutory rate applicable on the date of invoice. If the Customer is deemed to be a consumer, our prices are final prices, including VAT.
2. Invoices shall be due and payable without any deduction and within 8 days of receipt of the applicable invoice.
3. The agreement of early payment discounts is subject to the provision that the Customer has not fallen into arrears. The Customer is entitled to deduct the agreed payment discount from any payment made within 7 days from receipt of the applicable invoice. Payment discounts apply only to the value of goods, without VAT, customs, freight, packaging, palletizing and other separately stated costs.
4. Failure to comply with the payment terms or if circumstances become known to us following the signing of the contract, which lead to doubts about the credit worthiness of the Customer, we shall be entitled to carry out future deliveries only, if advance payments are made or a suitable collateral is furnished.
5. Payments by bill of exchange or check are only accepted as conditional payment if specifically agreed by us and if rediscountable, and shall include any pertaining amount to be payable by the Customer immediately in cash for costs incurred, in particular, discount costs, bill of exchange costs and bank charges. Bills of exchange or checks will be accepted as conditional payment only until the amount is fully credited.
6. The Customer - if deemed to be a business - has a right to set-off or retention only if the Customer's counterclaims have been finally confirmed by a court or are undisputed or have been acknowledged by us. The Customer - if deemed to be a consumer - is entitled to exercise a lien only if the counterclaim is based on the same contractual relationship.

### Section 5 Transfer of Risk

1. If the Customer is a business, the risk of accidental loss and accidental deterioration of the goods shall pass to the Customer upon receipt of the goods. If delivery "ex works" is agreed, the risk shall pass upon delivery of the goods to the carrier, shipping agent or other

person/organization who/which performs the task of shipping on behalf of the Customer. The passage of risk is unaffected by the fact whether the Customer is in default of acceptance or not.

2. The recipient of the goods and/or the Customer must report in writing and without undue delay any damages or lost goods in transit to the carrier in accordance with the statutory provisions. On request and at the Customer's expense, we will take out appropriate transport insurance cover for the delivery.

### Section 6 Liability for Defects

1. For commercial entities, all claims by the Customer become barred - for any legal reason whatsoever - after 12 months from the time of delivery or, if acceptance is required, from the time of acceptance of the goods. The statutory periods of limitation apply to claims for damages under Section 8. For commercial entities according to Section 478, 479 BGB, this will also apply to defects in a structure or for goods that have been used according to their intended use for a structure and have rendered the structure defective. If the Customer is a consumer, the statutory limitation provisions apply.
2. We will - at our reasonable discretion - replace or repair all parts which are showing a material defect due to a situation before the transfer of risk free of charge. Any such defects must be immediately reported to us upon discovery in writing. No liability is accepted for damages caused by natural wear and tear, unless we are responsible for such wear and tear.
3. No liability will be assumed for damages that are caused by the following reasons:
  - Unsuitable or improper use
  - Faulty installation or commissioning by the Customer or third parties
  - Faulty or negligent handling of goods, especially in view of the supplied operating instructions
  - Excessive stress conditions
  - Use of unsuitable equipment and replacement materials.
- a. Following notification and agreement between the Customer and us, the Customer shall grant us the time and opportunity required for performing any rectification and replacement supplies deemed necessary, otherwise we shall be released of our responsibility for defects. The Customer shall be entitled to rectify the defect himself or have it rectified by a third party and claim reimbursement of the associated expenditure only in urgent cases where operational safety is at risk or disproportionately large damages have to be avoided.
- b. If the Customer or third parties perform improper changes or repairs without our prior approval, our liability for any consequences arising thereof will cease.
- c. Without prejudice to the claims of the Customer according to this Section 6, further claims of the Customer in accordance with the provisions of Section 8 of these GTC shall apply.
- d. If the Customer is a commercial entity, used goods are sold without any liability for defects. This exclusion does not apply to claims under Section 8 of these Terms. If the Customer is a consumer, the statute of limitations for any claims for defects for used supplies shall be 12 months from the date of delivery. This limitation does not apply to claims under Section 8 of these Terms.
- e. Unless otherwise agreed, our national deliveries are provided free of intellectual property rights and copyrights of third parties. In case of a corresponding breach of industrial property rights we shall either acquire an appropriate licence from the third party or modify the goods in such a way that they comply with the copyright requirements. If this is not an option for us under reasonable conditions, both the Customer and we are entitled to withdraw from the contract.
- f. Otherwise, and notwithstanding section 8 hereto, the provisions of this section 6 shall apply accordingly for any defects in title, whereby claims by the customer are only valid if the customer notifies us in writing without delay about any claims made by a third party. Furthermore, the Customer may - neither directly nor indirectly - acknowledge an alleged infringing act; the possibilities for defence remain preserved without limitation; the infringement of a right is not based on the fact that the customer has altered the delivery item or used it in a manner not in accordance with the contract or the defect in title is attributable to an instruction given by the customer.

### Section 7 Delivery Period

1. The period of delivery or performance (hereinafter "delivery time") is subject to agreements with the Customer. Our compliance requires that all commercial and technical issues have been resolved between the parties and the Customer has fulfilled all his obligations, such as providing the necessary official certificates or permits or paying a deposit. If this is not the case, the delivery time shall be extended accordingly. This does not apply if we are responsible for the delay.
2. Compliance with the delivery time is subject to correct and punctual delivery of our own suppliers. We shall notify the Customer as soon as possible if delays become apparent.
3. If the Customer is deemed to be a commercial entity, delivery deadlines and dates are considered to have been met when the goods have left our factory at the indicated times or

the Customer has been informed that the shipment is ready. Where an acceptance is required - except for justified refusal of acceptance - the acceptance is deemed to have taken place on the date of acceptance or, alternatively, the date when the readiness for acceptance has been notified, in both cases only if acceptance is not delayed for reasons attributable to us.

4. The agreed delivery times shall be extended accordingly, if their non-compliance is due to force majeure such as war, mobilization, civil disorder or similar events we cannot influence. We will notify the Customer without undue delay of the beginning and the end of such circumstances. The same shall apply if such circumstances have an impact on deliveries made our suppliers or our subcontractor.
5. If we are in default and if the Customer incurs damages therefrom, the Customer may claim a lump-sum compensation for delayed delivery. Claims for damages by the Customer due to delivery delay shall be limited to 0.5 % of the total value, but in no case more than a total of 5 % of the price of that part of the supplies which could not be put to the intended use due to the delay.

If, after taking into account the legal exceptions, the Customer extends the delivery time by a reasonable period (following the expiry of the original delivery time), and if the supplier fails to comply with this term too, the customer shall have the right to withdrawal in accordance with statutory provisions. At our request, the Customer is obliged to declare within a reasonable period of time whether the Customer exercises the right of withdrawal from the contract. Further claims based on late delivery are governed exclusively by Section 8 of these GTC.

### Section 8 Liability

Claims for compensation for damages of any kind, even if those damages are not caused to the goods, are only valid in the following cases:

- Willful breach of duty by us
- Grossly negligent breach of duty by us or in the event of intentional or grossly negligent breach of duty by our legal representatives or vicarious agents
- Injuries to life and limb or health impairment caused by our negligent breach of duty or intentional or negligent breach of duty by our legal representatives or vicarious agents
- In cases of culpable violation of essential contractual obligations, which severely endanger the purpose of the contract, with regard to the contract-typical, foreseeable damage
- In cases of a liability under product liability law for defective goods, for personal injury or property damage to privately used items
- Defects that were fraudulently concealed or the absence of which we have guaranteed. Any further claims shall be excluded.

### Section 9 Business and Trade Secrets

1. The Customer is obliged to keep documents and information, such as specifications, illustrations, drawings, calculations and other documents and information strictly confidential. The same shall apply to any of our other business and trade secrets which we or the end user have disclosed to the Customer. Business and trade secrets shall not be made accessible to third parties without our prior written consent. The nondisclosure obligation survives the termination of this contract and shall cease, if the submitted figures, drawings, calculations and other documents, information and data has become part of the public domain, but not later than 10 years from the date of delivery of the goods.
2. The Customer is obliged to treat the contract concluded with us and all associated commercial and technical details as a business or trade secret and may not disclose such information.

### Art 10 Final Provisions

1. The law of the Federal Republic of Germany shall apply. The provisions of the UN Sales Convention do not apply.
2. If the Customer is a business, a legal entity under public law or a public law special fund, the exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be our registered office. However, at our discretion, we are also entitled to bring actions in the place of fulfillment for the delivery commitment or at place of registered office of the Customer. The Place of performance shall be our business location.  
Status: February 2014