

# General terms of contract

## Trucktec Automotive GmbH



### 1. General, scope

(1) Our Terms of Contract apply exclusively; we do not acknowledge provisions of the customer that run counter to or deviate from our Terms of Contract, unless we consented expressly to their validity in written form. Our Terms of Contract also apply should we perform the delivery to the customer without reservation, while being aware of provisions of the customer that run counter to or deviate from our Terms of Contract.

(2) All agreements reached between us and the customer for the purpose of performing the services and deliveries contractually agreed are set out in this Agreement in writing.

(3) Our Terms of Contract only apply vis-à-vis companies in terms of section 310, paragraph 1, BGB (German Civil Code).

### 2. Bid, bidding documents, non-disclosure, special makings

(1) Should the purchase order be qualified as a bid pursuant to section 145, BGB, we can accept it within 2 weeks.

(2) We reserve property rights and copyrights to figures, drawings, calculations specification (tender and performance specification) and other documents. This also applies to such written documents that have been designated as "confidential". The customer requires our express written consent prior to forwarding them to third parties.

(3) The customer is obligated to treat all commercial and/or technical details, which are not self-evident and which he learns about within the scope of the business relationship, as business secrets.

(4) We reserve an increase or shortage of 10% of the ordered quantity for us at all special makings.

### 3. Prices, terms of payment, set-off, right of retention

(1) Provided that nothing else results from the confirmation of the order, our prices are ex: "company headquarters, Trucktec Automotive GmbH Katharina-Loth-Str. 2, 66386 St. Ingbert", excluding packaging. Packaging will be invoiced separately.

(2) Statutory VAT is not included in our prices. It will be disclosed separately in the statutory amount in the invoice on the day of billing.

(3) The deduction of a cash discount requires a special written agreement.

(4) Provided that nothing else results from the confirmation of the order, net payment (no deduction) for the contractually agreed services and deliveries is due within 30 days from the date of the invoice. The statutory regulations with regard to the consequences of default of payment apply.

(5) The customer is entitled to set-off rights only

should his counterclaims have been legally established, are beyond dispute or have been acknowledged by us. Furthermore, he is entitled to a retention right as far as his counterclaim is based on the same contractual relationship.

### 4. Delivery time

(1) The delivery time given by us only begins once all technical questions have been clarified.

(2) Complying with our delivery commitment further requires that the customer fulfils his obligations punctually and properly. The plea of non-performance of the agreement remains reserved.

(3) Should the customer come into default of acceptance or culpably violate his obligations to co-operate in any other way, we are entitled to demand compensation for any damage incurring to us in this respect, including possible extra expenditures. The right remains reserved to further claims or rights.

(4) Provided that the prerequisites of Item (3) are given, the risk of accidental loss or accidental deterioration of the goods and services delivered by us shall be transferred to the customer at the point in time in which he has come into default of acceptance or debtor's delay.

(5) We shall be liable according to the statutory regulations, insofar as the underlying contract pertains to a firm deal in terms of section 286, paragraph 2, no. 4 BGB or of section 376 HGB (German Commercial Code). We shall also be liable according to the statutory regulations insofar as the customer is entitled to assert that his interest in the further performance of the contract has ceased to exist as a result of a delay in delivery, for which we are responsible.

(6) Furthermore, we shall be liable according to the statutory regulations if the delay in delivery is due to a deliberate or grossly negligent violation of the contract, for which we are responsible. A fault on the part of our representatives or sub-contractors shall be ascribed to us. Insofar as the delay in delivery is due to a grossly negligent violation of the contract, for which we are responsible, our liability for compensation for damage is limited to foreseeable damages that typically occur.

(7) We also shall be liable according to the statutory regulations insofar as the delay in delivery, for which we are responsible, is due to a culpable violation of an essential contractual obligation. In this case, however, our liability for damage is limited to foreseeable damages that typically occur.

### 5. Transfer of risks, packaging costs

(1) Provided that nothing else results from the confirmation of the order, delivery ex: "company headquarters, Trucktec Automotive GmbH Katharina-Loth-Str. 2 66386 St. Ingbert" shall be agreed on.

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(2) Separate agreements apply for the acceptance of returned packaging.

(3) Should the customer wish it, we will provide coverage of the delivery through a cargo insurance. The costs for this shall be borne by the customer.

### 6. Liability for defects

(1) Claims for defects by the customer provide that the customer met his inspection- and reproof obligations according to § 377 HGB (German Commercial Code) properly.

(2) Should a defect of the contractual services and deliveries be on hand, we shall rectify it by dint of supplementary performance. As far as a defect of our delivery and service is on hand, the choice rests with us as to whether the supplementary performance should be performed as a rectification of the defect or in the form of a new, faultless delivery and service. In this case, we are obligated to bear all the expenditures necessary for the purpose of supplementary performance, in particular: freight charges, travel costs, work costs and material costs, as far as these costs are not increased by the fact that contractually agreed services and deliveries have been delivered to a different location than the place of delivery.

(3) Should the supplementary performance fail, the customer is entitled to demand withdrawal or reduction according to his choice.

(4) We shall be liable according to the statutory regulations, provided that the customer claims compensation for damages that are based on willful intent or gross negligence on the part of our representatives or sub-contractors. Insofar as we are not accused of deliberate breach of contract, liability for damages is limited to foreseeable damages that typically occur.

(5) We shall be liable according to the statutory regulations, provided that we have culpably violated an essential contractual obligation; in this case, liability for damages is likewise limited to foreseeable damages that typically occur. An essential contractual obligation is given when the breach refers to an obligation on whose performance the customer has relied and had good reason to rely.

(6) Liability for culpable injury to life, limb or health shall remain unaffected; this also applies to mandatory liability according to the Product Liability Act.

(7) Insofar as not regulated differently above, liability is excluded.

(8) The statute of limitations for claims for defects is 12 months from the date of the transfer of risks.

(9) In the event of a delivery recourse, according to sections 478, 479 BGB (German Civil Code), the statute of limitations remains unaffected.

### 7. Joint liability

(1) Any further liability for damage, other than provided in section 6 – regardless of the legal nature of the claim – is excluded. This applies in particular to claims for damages attributable to faults at the time of the conclusion of the contract, because of other neglects of duty or because of delictual claims of material damage according to section 823 BGB (German Civil Code).

(2) The limitation according to paragraph (1) also applies, insofar as the customer, instead of claiming compensation for the damage, demands compensation for futile expenditures instead of the service.

(3) Insofar as liability for damages against us is excluded or limited, this also applies to personal liability for damages on the part of our employees, workers, co-workers, representatives and sub-contractors.

### 8. Reservation of property rights

(1) We reserve the property rights to the delivered merchandise until the receipt of all payments arising from the delivery contract. Should the customer conduct himself in a manner that is contrary to the contract, in particular, should he delay payment, we are entitled to take back the delivered merchandise. Taking back the delivered merchandise entails our withdrawal from the contract. After taking back the delivered merchandise, we are entitled to sell it; the proceeds of the sale is to be deducted – minus appropriate sales costs – from the customer's liabilities.

(2) The customer is obligated to handle the delivered merchandise carefully; he is especially obligated to insure the delivered merchandise adequately at replacement value against damage arising from fire, water or theft at his own expense. If maintenance and inspection work is required, the customer has to have it carried out at his own expense and in due time.

(3) In the event of seizures or other interventions by third parties, the customer has to notify us promptly in written form so that we are able to file suit according to section 771 ZPO (Civil Process Order). Insofar as the third party is not capable of reimbursing us for the judicial and extrajudicial costs of a suit, according to section 771 ZPO, the customer is liable for the loss that has incurred to us.

(4) The customer is entitled to continue to sell the delivered merchandise in the normal course of business; nonetheless, he transfers to us, with immediate effect, all receivables amounting to the invoice total (including VAT) of our payment request, which accrue to him from the resale to his customers or third parties, regardless of whether the delivered merchandise has been sold without having been processed or subsequent to having been processed. The customer remains authorized, even after the act of transfer, to

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collect this receivable. Our authority to collect the receivable ourselves remains unaffected by it. We commit ourselves, however, not to collect the receivable as long as the customer complies with his payment obligations from the proceeds he has collected, does not delay payments and, in particular, as long as no application for settlement proceedings or bankruptcy proceedings has been filed or no bankruptcy is on hand. Yet should this be the case, we are entitled to demand that the customer disclose the receivables and debtors to us; that he deliver all the data required for collection; that he hand over the pertinent documents and that he notify the debtor (third party) about the transfer.

(5) The processing or modification of the delivered merchandise by the customer is always performed for us. If the delivered merchandise is processed in conjunction with other items not belonging to us, we acquire co-ownership of the new item proportional to the value of the delivered merchandise (invoice total, including VAT) with respect to the other processed items at the time of processing. Otherwise, the same applies to the article generated by processing as applies to the delivered merchandise delivered under reservation.

(6) If the delivered merchandise is inseparably mixed with other items not belonging to us, we acquire co-ownership of the new product in the same proportion as the value of the delivered merchandise (invoice total, including VAT) with respect to the other products mixed at the time of such mixing. If the mixing is made in a way that the article of the customer has to be regarded as the principal product, it shall be agreed that the customer will transfer co-ownership to us proportionally. The customer shall safe keep the sole ownership or the co-ownership for us.

(7) We commit ourselves to release the securities that

are due to us at the customer's request insofar as the realizable value of our securities exceeds the receivables to be secured with it by more than 10%; the selection of the securities to be released rests with us.

### 9. Jurisdiction, place of fulfillment

(1) Provided that the customer is a businessman, our place of business is the place of jurisdiction. Yet we are entitled to bring an action against the customer before the court of his place of residence.

(2) The law of the Federal Republic of Germany applies; the UN law on the sale of goods is excluded.

(3) Provided that nothing else results from the confirmation of the order, our place of business is the place of fulfillment.

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