

TERMS OF SALE AND DELIVERY **of PWM Industry GmbH and PWM Automotive GmbH** **Entrepreneurial business**

§ 1 SCOPE, FORM

- 1.1 These General Terms and Conditions (GTC) apply to the delivery of movable goods following the contract concluded between PWM Industry GmbH / PWM Automotive GmbH (hereinafter referred to as "Seller" or "PWM") and the purchaser and thus without regard to whether PWM manufactures the goods itself or purchases them from suppliers. Unless otherwise agreed, the General Terms and Conditions in the version valid at the time of the buyer's order or, in any case, in the version last notified to him in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each case.
- 1.2 Individual agreements made with the buyer in individual cases (including collateral agreements, supplements and amendments) shall, in any case, take precedence over these GTC. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.
- 1.3 The GTC of PWM shall only apply if the purchaser is an entrepreneur (§ 14 BGB), a legal entity under public law, or a special fund under public law.
- 1.4 References to the applicability of statutory provisions are for clarification purposes only. Therefore, even without a current clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in this GTC or individual contractual agreements take precedence.
- 1.5 Legally relevant declarations and notifications by the buyer concerning the contract (e.g., setting of deadlines, notification of defects, withdrawal, or reduction) shall be made in writing or text form (e.g., letter, e-mail, fax). Statutory formal requirements and further evidence, particularly in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.

§ 2 NO APPLICATION OF THE BUYER'S TERMS OF DELIVERY

The terms and conditions of sale of PWM shall apply exclusively. Deviating, conflicting, or additional terms and conditions of sale or general terms and conditions of the purchaser shall only become part of the contract if and to the extent that PWM has expressly agreed to their validity in writing or text form. This requirement of consent shall apply in any case, for example, even if PWM carries out the delivery to the purchaser without reservation in knowledge of the Purchaser's General Terms and Conditions.

§ 3 CONCLUSION OF CONTRACT

- 3.1 PWM's offers are subject to change and non-binding. This shall also apply if PWM has provided the purchaser with catalogs, technical documentation (e.g., drawings, plans, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserve property rights and copyrights (cf. § 10).
- 3.2 The order of the goods by the buyer is considered a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within 14 days of its receipt by us.

- 3.3 Acceptance may be declared by PWM either orally, in writing, in text form, or by delivering the goods to the purchaser.
- 3.4 Unless expressly confirmed by PWM in writing or text form and/or separately agreed by the parties in writing or text document, PWM does not owe any specific material certificates, test certificates, test reports or technical documentation for the delivered goods. However, suppose the Purchaser requires certain material certificates, test certificates, test reports or technical documentation for the returned goods. In that case, it shall notify PWM thereof in writing or text form. Purchaser and PWM shall then be free to enter into a separate agreement on delivering specific material certificates, test certificates, test reports or technical documentation for the returned goods in written or text form.
- 3.5 PWM is not obliged to comply with specific quality assurance guidelines or other delivery guidelines or implement a quality management system without express agreement with the Purchaser in writing or text form.

§4 DELIVERY PERIOD / DELAY IN DELIVERY

- 4.1 The delivery period is agreed upon individually or stated by us upon acceptance of the offer.
- 4.2 Unavailability of the service
Except for cases of force majeure, the following applies: If PWM is unable to meet binding delivery deadlines for reasons for which PWM is not responsible (non-availability of performance), PWM shall inform purchaser thereof without delay and at the same time notify the purchaser of the expected new delivery deadline. If the service is not available even within the new delivery period, PWM is entitled to withdraw from the contract in whole or in part; PWM will immediately refund any consideration already paid by the purchaser.
A case of non-availability of performance in the sense as mentioned above shall be deemed to be, in particular, the failure of PWM's supplier to deliver on time if PWM has a concluded a congruent hedging transaction, neither PWM nor its suppliers are at fault, or PWM is not obligated to procure in the individual case.
- 4.3 Force majeure
Events of force majeure entitle PWM to postpone delivery for the duration of the impediment and a reasonable start-up period. This shall also apply if such events occur during an existing delay. Force majeure shall be deemed to include monetary, trade policy and other sovereign measures, strikes, lockouts, operational disruptions for which we are not responsible, obstructions of traffic routes, delays in import/customs clearance, pandemics and all other circumstances which, through no fault of PWM, make deliveries and services significantly more difficult or impossible. It is irrelevant whether the cases occur at PWM, the supplying plant, or another upstream supplier. If, as a result of the events mentioned above, performance becomes unreasonable for one of the contracting parties, it may withdraw from the contract utilizing an immediate declaration in writing or text form.
- 4.4 PWM's statutory rights, in particular in case of exclusion of the obligation to perform (e.g., due to impossibility or unreasonableness of performance and subsequent performance), shall remain unaffected.
- 4.5 For the occurrence of the delay in delivery, a reminder by the buyer is required.
- 4.6 In all other respects, the buyer's rights according to § 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g., due to impossibility or unreasonableness of performance and subsequent performance), shall remain unaffected.

§ 5 DELIVERY/PACKAGING AND TRANSPORT/TRANSFER OF RISK/ACCEPTANCE/DEFAULT OF ACCEPTANCE

- 5.1 Delivery is usually made from PWM's distribution warehouse in Bodnegg or Eriskirch, which is also the performance for the delivery and any subsequent enactment. However, at the request and expense of the buyer, the goods shall be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment (in a particular transport company, shipping route, packaging) ourselves.
- 5.2 The risk of accidental loss and accidental deterioration of the goods shall pass to the buyer upon handover at the latest. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass already upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Insofar as acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions shall also apply mutatis mutandis to an agreed acceptance. The handover or acceptance is equal if the buyer is in default of acceptance.
- 5.3 If the Buyer is in default of acceptance, fails to cooperate, or if our delivery is delayed for other reasons for which the buyer is responsible, we shall be entitled to claim compensation for the resulting damage, including additional expenses (e.g., storage costs).
- 5.4 The proof of more significant damage and our legal claims (in particular compensation of additional expenses, reasonable compensation, termination) remain unaffected. The purchaser shall be entitled to prove that we have not incurred any damage or that the damage is significantly less than the lump as mentioned above sum.
- 5.5 PWM is entitled to make partial deliveries to a reasonable extent. In made-to-order goods, excess and short deliveries of up to 10% of the contracted quantity are permissible.
- 5.6 In the case of call orders, PWM is entitled to manufacture or have manufactured the entire order quantity in one go. Any change requests cannot be considered after the order has been placed unless expressly agreed upon. Unless fixed agreements have been made, call-off dates and quantities can only be met within the scope of PWM's delivery and manufacturing capabilities. If the goods are not called off following the contract, PWM is entitled to invoice them as delivered after the expiry of a reasonable grace period.

PWM must be given call-offs and grade classifications for approximately equal monthly quantities for contracts with continuous deliveries. Suppose the goods are not called off or scheduled in due time. In that case, PWM shall be entitled, after setting a grace period to no avail, to organize the goods themselves and delivering the goods or withdrawing from the part of the contract that is still in arrears and claiming damages instead of performance. At the end of the agreement, our stock must be accepted.

§ 6 PRICES/TERMS OF PAYMENT/SET-OFF/RETENTION

- 6.1 Unless otherwise agreed in individual cases, our prices current at the time of conclusion of the contract shall apply, ex-warehouse, plus statutory value-added tax. Packaging, if applicable, will be charged additionally at cost and will not be taken back.
- 6.2 In the case of sale by delivery to a place other than the place of performance, the buyer shall bear the transport costs ex-warehouse and the costs of any transport insurance requested by the buyer. In addition, any customs duties, fees, taxes and other public charges shall be borne by the buyer.

- 6.3 The purchase price is due and payable within 10 days from the date of invoice and delivery or acceptance of the goods. However, we are entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. Therefore, we declare a corresponding reservation at the latest with the order confirmation.
- 6.4 Upon expiry of the payment as mentioned above deadline, the buyer shall be in default. During the default period, the purchase price shall bear interest at the applicable statutory default interest rate. We reserve the right to assert further damage caused by delay. Our claim to the commercial due date interest (§ 353 HGB) shall remain unaffected concerning merchants.
- 6.5 The Purchaser shall only be entitled to rights of set-off or retention to the extent that its claim has been finally adjudicated or is undisputed. However, in the event of defects in the delivery, the buyer's counter rights shall remain unaffected. In particular, the buyer shall be entitled to retain a part of the purchase price reasonable concerning the defect.
- 6.6 If, after the conclusion of the contract, it becomes apparent (e.g., by filing for insolvency proceedings) that our claim to the purchase price is jeopardized by the buyer's inability to pay, we shall be entitled to refuse performance following the statutory provisions and – if necessary after setting a deadline – to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), we may declare rescission immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.

§ 7 RESERVATION OF OWNERSHIP

- 7.1 Until full payment of all our present and future claims arising from the contract and an ongoing business relationship (secured claims), we retain title to the goods sold.
- 7.2 The goods subject to retention of title may not be pledged to third parties or assigned as security before full payment of the secured claims. Furthermore, the buyer shall notify us in writing without delay if an application is made to open insolvency proceedings or if third parties (e.g., seizures) seize the goods belonging to us.
- 7.3 In the event of conduct by the buyer in breach of the contract, in particular non-payment of the purchase price due, we shall be entitled to withdraw from the contract following the statutory provisions or/and to demand the return of the goods based on the reservation of title. The demand for a return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. Suppose the purchaser does not pay the purchase price due. In that case, we may only assert these rights if we have previously set the purchaser a reasonable deadline for payment without success or if setting such a deadline is dispensable under the statutory provisions.
- 7.4 Until revoked following (c) below, the buyer is authorized to resell and process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.
- a) The retention of title shall extend to the products resulting from the processing, mixing, or combining of our goods at their total value, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing, or combining with interests of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed, or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

- b) The Buyer hereby assigns to us by way of security all claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, according to the preceding paragraph. We accept the assignment. The buyer's obligations outlined in § 7.2 shall also apply concerning the assigned claims.
- c) The Buyer shall remain authorized to collect the claim in addition to us. We undertake not to collect the share as long as the buyer meets his payment obligations towards us. There is no deficiency in his ability to pay. We do not assert the retention of title by exercising a right according to § 7.3. However, if this is the case, we may demand that the buyer inform us of the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents, and inform the debtors (third parties) of the assignment. Furthermore, in this case, we shall be entitled to revoke the buyer's authority to sell further and process the goods subject to retention of title.
- d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the buyer's request.

§ 8 CLAIMS FOR DEFECTS BY THE BUYER

- 8.1 The properties of the goods, particularly their quality, grade and dimensions, shall be determined according to the agreements made. References to standards (e.g., DIN standards) and similar regulations as well as information on quality, grade, dimensions, weights and usability of the goods, information in drawings and illustrations as well as statements in advertising material shall not constitute warranties or guarantees unless they are expressly designated as such in writing or text form. The same applies to declarations of conformity and corresponding marks such as CE and GS. Suitability and use risks are the responsibility of the buyer.
- 8.2 The provisions of the German Commercial Code (HGB) shall apply to the inspection of the goods and notification of defects with the following provisions:
- The Purchaser must examine the properties of the goods relevant for the respective use immediately after delivery and to notify PWM of any defects of the goods immediately in text form. In the event of intended installation or attachment of the goods, the properties relevant for installation or attachment shall also include the internal properties of the goods. The obligation to inspect exists even if a test certificate or other material certificate has been supplied. Defects that cannot be discovered immediately after delivery, even with the most careful inspection (hidden defects), must be reported to PWM in text form immediately after discovery.
 - Insofar as the purchaser, in the event of installation or attachment of the goods, fails to examine the properties of the goods relevant for the intended use at least on a random basis before installation or attachment (e.g., utilizing functional tests or trial installation), this shall constitute, concerning PWM, a severe disregard of the due care required in the course of trade (gross negligence). In this case, the purchaser's rights in respect of defects concerning these properties shall only come into consideration if the defect in question has been fraudulently concealed or a guarantee for the quality of the item has been assumed.
- 8.3 If the Purchaser discovers defects during the inspection of the goods or subsequently, he is obliged, in addition to the provisions under § 8.2, to make the goods complained of, or samples thereof available to PWM to examine the complaint and to permit an inspection of the goods complained of within a reasonable period. Otherwise, the buyer may not invoke the defects of the goods.

- 8.4 If the goods are defective and if the purchaser has complied with its statutory obligations to examine the goods and to give notice of defects (§§ 377,381 BGB), the purchaser shall be entitled to the rights for defects following the statutory provisions of the BGB, with the restrictions that PWM shall be allowed to choose between rectification of defects and subsequent performance and that minor (insignificant) defects shall only entitle the purchaser to reduce the purchase price (reduction).
- 8.5 In the event of a replacement delivery, the purchaser shall return the defective item to PWM following the statutory provisions.
- 8.6 PWM is entitled to make the supplementary performance owed, if any, dependent on the purchaser paying the purchase price due. However, the buyer shall be entitled to retain a good part of the purchase price concerning the defect.
- 8.7 If the Buyer has installed the defective goods in another item or attached them to another thing following their nature and intended use, it may claim compensation for the necessary expenses for removing the faulty goods and installing or connecting the repaired or delivered non-defective goods ("removal and installation costs") only following the following provisions:
- Only such removal and installation costs are required which directly relate to the removal or dismantling of the defective goods and the installation or fitting of identical goods, have been incurred based on customary market conditions and are proven to PWM by the purchaser by submitting proper receipts at least in text form.
 - Any additional costs incurred by the purchaser for consequential damage caused by a defect, such as loss of profit, costs of business interruption, or other costs for replacement purchases, shall not be deemed to be immediate dismantling and installation costs and shall therefore not be eligible for compensation as reimbursement of expenses according to Section 439 (3) of the German Civil Code (BGB). The same applies to sorting costs and additional costs arising from the fact that the goods sold and delivered are located beyond the agreed place of performance.
 - The Buyer shall not be entitled to demand advance payment for dismantling and installation costs and other costs of subsequent performance.
- 8.8 Insofar as the expenses claimed by the buyer for subsequent performance are disproportionate in the individual case, in particular concerning the purchase price of the goods in a defect-free condition, taking into account the significance of the lack of conformity, we shall be entitled to refuse to reimburse such expenses. Disproportionality should be deemed to exist in particular if the costs claimed, particularly the removal and installation costs, exceed 150 % of the invoiced value of the goods or 200 % of the reduced value of the goods due to the defect.
- 8.9 Further claims are excluded following § 9. This applies in particular, but not conclusively, to claims for compensation of:
- Damage that has not occurred to the goods themselves (consequential damage),
 - Costs for the self-remedy of a defect without the legal requirements for this being met, and
 - Removal and installation costs, insofar as the goods delivered by us no longer existed in their original material quality at the time of installation or addition, or a new product was manufactured from the returned goods before installation.
- 8.10 An unjustified request to remedy a defect entitles PWM to compensation if the purchaser could have recognized that there was no material defect upon careful inspection.

- 8.11 Representations and warranties are only validly given if we declare them expressly and in text form.
- 8.12 We do not assume any warranty for the usability of the goods for the purpose intended by the customer unless the usability desired by the customer was expressly a specific purpose of the contract.

§ 9 GENERAL LIMITATION OF LIABILITY AND STATUTE OF LIMITATIONS

- 9.1 Insofar as nothing to the contrary arises from this GTC, including the following provisions. We shall be liable following the statutory provisions in the event of a breach of contractual and non-contractual obligations.
- 9.2 We shall be liable for damages – irrespective of the legal grounds – within the scope of fault liability in the event of intent and gross negligence. In the event of simple failure, we shall only be liable
- a) for damages resulting from injury to life, body, or health,
 - b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfillment of which enables the proper execution of the contract in the first place and on the compliance with which the contractual partner regularly relies upon and may depend upon); in this case, however, our liability shall be limited to the compensation of the foreseeable, typically occurring damage.
- 9.3 The limitations of liability resulting from § 9.2 shall also apply to third parties and breaches of duty by persons (also in their favor) whose fault we are responsible for according to statutory provisions. However, they shall not apply if a defect was fraudulently concealed or a guarantee for the quality of the goods was assumed and for claims of the buyer under the Product Liability Act.
- 9.4 The Buyer may only rescind or terminate the contract due to a breach of duty that does not consist of a defect is responsible for the duty breach. A free right of termination of the purchaser (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.
- 9.5 Unless otherwise agreed, contractual claims which the purchaser may have against PWM on the grounds of or in connection with the delivery of the goods shall become statute-barred one year after delivery of the goods. This shall not apply insofar as § 438 para. 1 no. 2 BGB, §§ 478, 479 BGB, or § 634 a para. 1 no. 2 BGB prescribes more extended periods and cases of injury to life, body or health, in the event of an intentional or grossly negligent breach of duty by PWM or in the event of fraudulent concealment of a defect. In cases of subsequent defective performance, the limitation period shall not start again.

§ 10 COPYRIGHTS

- 10.1 We reserve ownership and copyright to design drawings, calculations, designs, calculations and other documents. They may only be made accessible to third parties in agreement with PWM. Graphics and other documents belonging to the offer shall be returned upon request.
- 10.2 Insofar as PWM has delivered items according to drawings, models, samples, or other documents provided by the purchaser. The purchaser shall warrant that the property rights of third parties are not infringed. Prohibition of third parties concerning property rights, particularly the manufacture and delivery of such items, PWM shall be entitled – without being obliged to examine the legal situation – to cease any further activity in this respect and claim damages if the purchaser is at fault. The purchaser also undertakes to immediately indemnify PWM against all claims of third parties in connection in addition to that.

§ 11 TEST PARTS, MOLD AND TOOLS

- 11.1 If the Buyer has to provide parts for the execution of the order, they shall be delivered free production site with the agreed quantity, otherwise with an additional reasonable amount for any rejects, in due time, free of charge and free of defects. If this does not happen, any costs and other consequences caused by this shall be borne by him.
- 11.2 The production of test parts, including the costs for mold and tools, shall be borne by the purchaser.
- 11.3 For tools, molds and other production devices provided by the Purchaser, PWM's liability shall be limited to the same care as in its own business. The buyer bears costs for maintenance and care. PWM's obligation to retain the goods shall expire – irrespective of the purchaser's ownership rights – no later than two years after the last production from the mold or tool.

§ 12 PLACE OF PERFORMANCE, PLACE OF JURISDICTION, APPLICABLE LAW

- 12.1 Place of performance for PWM's account, for a supplementary performance as well as for payments of the purchaser shall be PWM's premises in Eriskirch or Bodnegg.
- 12.2 If the Purchaser is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – including international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of PWM in 88285 Bodnegg unless a mandatory statutory place of jurisdiction prevails. However, PWM is also entitled to bring an action at the purchaser's general place of jurisdiction; this also applies to interim injunctions or the initiation of or application for other judicial measures.
- 12.3 All legal disputes between PWM and the Purchaser shall be governed by German law and the exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of April 11, 1980. The prerequisites and effects of the retention of title shall be subject to the law at the respective place of storage of the item, insofar as the choice of law made in favor of German law is inadmissible or ineffective after that.
- 12.4 Insofar as the contract or this GTC contain loopholes. Those legally effective provisions should be deemed to have been agreed to fill these loopholes. The contracting parties would have agreed to follow the economic objectives of the contract and the purpose of these GTC if they had known about the loophole.

§ 13 MEASUREMENT

In cases of doubt, the German version of these GTC shall prevail.