

PV Technik GmbH – General Terms and Conditions of Sale

I. Purview

- The following general terms and conditions of sale (AVB) only apply to our customers (hereinafter: purchasers), provided that these are either companies (§ 14 BGB [German Civil Code]), corporate bodies subject to public law or separate estates under public law.
- We carry out all deliveries and services on the basis of the following AVB exclusively. This also applies to all future commercial transactions of this type, even if these conditions are not explicitly referred to in each individual case. Deviating, opposing or supplementary general terms and conditions of sale on the part of the purchaser are hereby rejected. Agreements made with the purchaser for individual cases (including subsidiary agreements, amendments, changes and deviating terms) have priority over the AVB.
- Notes on the validity of statutory regulations only have an explanatory function. Even without such explanation the statutory regulations apply, insofar as they are not directly changed or expressly excluded in this AVB.

II. Contract Formation

- Our offers are always non-binding and subject to change. They merely present an offer to the purchaser to place a respective order. A contract only becomes effective once we have accepted an order. Applications, amendments or changes to an order made orally, by telephone, in writing or in some other electronic form are accepted once we have confirmed them; processing the order, receipt of a delivery note or an invoice to the purchaser shall be seen as confirmation. The purchaser is bound to the order for a period of two weeks from us receiving it. Regarding the content and execution of the order, our order confirmation and the information contained within it is binding.
- The delivery contents are based on the order acknowledgement. Discrepancies in dimensions, weights and unit quantities are permitted within the scope of standard industry tolerance, if they are a result of necessary changes or changes which are beyond our control or in breach of good faith, and insofar as these can be reasonably expected by the purchaser taking into consideration the justified interests of both parties. For custom-made products there can be a discrepancy of up to 10% between the quantity ordered and that which is delivered.
- We reserve ownership and copyright for estimates, plans and other documentation. This documentation must not be made available by the purchaser to third parties without our express consent.
- Without prejudice to the above mentioned point 2, changes in design and shape, colour discrepancies and changes in the delivery contents as a result of our supplier are subject to change without notice. This only applies insofar as these were necessary after the contract formation and not brought about by us in bad faith, and only insofar as they can be reasonably expected by the purchaser taking into consideration the justified interests of both parties.
- Should we or the supplier use any symbols or numbers to identify the order or the item of purchase, no rights can be derived solely from this pertaining to the specification of the item of purchase or the delivery contents. This is particularly pertinent for specification of part numbers.

III. Price / Terms of Payment

- Provided that nothing else is stated in the order confirmation, the prices shall be applicable ex-works or ex-warehouse including value added tax (hereinafter referred to as: VAT) at the statutory rate and in addition to transport, packaging and any other additional costs. We will include transport insurance for the delivery of the goods in the name of and at the cost of the purchaser, provided that he wants this.
- As long as there are no other agreements, the amount invoiced is due and payable upon receipt. An agreement is required for the deduction of discounts and terms of payment and must be indicated separately on the invoice.
- Non-cash payments shall only be accepted on account of performance. Bills of exchange and cheques shall only be accepted if previously agreed.
- A set-off by the purchaser with counter-claims or the assertion of a right of retention by the purchaser is excluded, unless the set-off or the right of retention rests upon the same contractual relationship, or § 320 BGB, or the counter-claims are undisputed or determined without further legal recourse.
- Should the purchaser fall into arrears of payment or should a considerable deterioration occur in his financial situation, all our claims will be due immediately, even if they are claims from previous contractual relationships. The requirements of the arrears and the amount of interest on the arrears is based on statutory regulations. We expressly reserve the right to assert higher damages due to arrears.
- The purchaser must not assign rights to third parties, especially those relating to claims and warranty, without our prior consent.
- We reserved the right to increase prices in accordance with potential cost increases, for examples as a result of changes in supply agreements, trade agreements or increases in material prices. If the agreed purchase price increases by more than 5%, the purchaser is entitled to rescind the contract. A compensation claim by the purchaser is precluded for such a scenario.
- Interest of 5% above the base rate p.a. shall be payable on due accounts receivable.
- We are entitled to offset payments of the purchaser first against accounts receivable. In case interest and costs have already arisen, we are entitled to offset payments of the purchaser first against the costs, then against interest and finally against the principal claim.

IV. Terms of Delivery and Transport

- Unless otherwise specified, the date of the delivery slip will correspond to the performance date. Deadlines and dates proposed by us for deliveries and services will always be an approximation, unless a concrete deadline or date has been expressly agreed in writing. Delivery dates must always begin with the date of the contract formation as well as clarification of all technical properties and receipt of an advance payment, to the extent agreed.
- We reserved the right to carry out partial deliveries or partial performances to a reasonable extent.
- The condition of correct and punctual deliveries to us as the supplier remains reserved. We are not responsible for delays caused by late or failed deliveries from our suppliers, or those that are not made in the contractually agreed manner, insofar as no actual fault lies with us. We will immediately inform the purchaser about any such hindrances.
- Our deliveries are made EX WORKS - EXW (Incoterms 2010) unless otherwise agreed.
- We are obliged to take back the transport packaging and all other packaging at our expense, unless the transport packaging has been damaged by the receiver in such a way that reusing it or recycling its materials is no longer possible or only possible with great difficulty, and if this damage is not caused by the way in which the product was delivered and for which the supplier is not responsible.
- In case of delays in delivery caused by acts of God, riots, strikes, lockout, raw material shortages or interruptions of operation for which we are not responsible, also in the case of our suppliers, the time of delivery will be extended by at least the time taken to remedy the fault, insofar as this fault affects the manufacturing or shipping procedures of the item to be delivered. We will immediately inform the purchaser of the time of start and finish of any such hindrances.
- We and the customer also have the right to partially or fully rescind the contract with the exclusion of all claims to compensation, in case of enduring interruptions of operation caused by acts of God, riots, strikes, lockout, raw material shortages or interruptions of operation for which we are not responsible, or in the event that we have, through no fault of our own, failed to receive deliveries from our own suppliers. Any services rendered are to be remunerated immediately in case of a rescission. The contract partner who intends to rescind a contract in accordance with the aforementioned provisions must announce this with a notice period of two weeks. Enduring interruptions of operation for our purposes can be taken to mean an interruption of more than five weeks.
- Claims for compensation regarding delay in delivery can only be asserted in accordance with the terms of section V.3.

V. Product Defect Rights, Compensation

- If used items are sold, the customer buys the goods in the condition they are in at the time of closing the purchase contract. We assume no guarantee that the products will be free of defects insofar as malice or gross negligence are not the cause.
- Should we be bound to any supplementary performances, these will be ensue either through subsequent improvements or an additional delivery according to our choice.
§ 377 HGB [German Commercial Code] remains intact. This means in particular that any reclamation is precluded, as long as the goods were further processed despite apparent defects.
All kinds of descriptions or information with regard to weight and/or quantity, especially within catalogues, price lists and advertisements, are merely benchmarks or approximate values. They are not binding quality descriptions. Minor, technically unavoidable quality discrepancies of quality, colour, width, weight or equipment should not be considered defects. This also applies to commercial discrepancies.
Replaced parts become our property. In the event of defect removals, we are obligated to bear all costs relating to the defect removal, particularly those arising from transport, infrastructure, labour and materials provided that these do not result as a result of the item of purchase being transported to a location other than the one contractually agreed upon; the rights of the purchaser as per Section 439 (III) of the German Civil Code BGB shall not be limited as a result.
- In the event of the culpable violation of a fundamental contractual obligation (so-called cardinal duty) we shall be liable for damages. However, the amount will be limited to the amount of the typical and foreseeable damage unless otherwise indicated hereinafter. Cardinal duties are those duties whose fulfilment mainly facilitates the proper performance of the contract and the observance of which the client relies on, and furthermore those whose violation would compromise the attainment of the purpose of contract.
The purchaser is entitled to claims for compensation against us in accordance with the statutory provisions and unrestricted to the statutory rate, when these:
 - are based on damages to life, body or health and were caused by the deliberate or reckless violation of duty on our part, by one of our statutory representatives or one of our vicarious agents or
 - are based on a deliberate or grossly negligent violation of duty on our part, by one of our statutory representatives or one of our vicarious agents, or based on fraud
 - are based on the Produkthaftungsgesetz [product liability law] or
 - are based on the violation of a duty from a transferred procurement risk or a transferred guarantee.Any other claims for compensation against us, our statutory representatives and our vicarious agents are precluded, irrespective of which legal ground they are based on. The legal provisions regarding the burden of proof shall remain effective.

VI. Limitation of Claims for Defect

- Purchaser claims based on material defects lapse after one year, unless,
 - a. in the case of the goods delivered by us, the item which has been used in accordance with its usual intended use in a building structure and has caused the building structure to be defective or
 - b. the defect is the result of an intentional or malicious violation on our part or on the part of our legal representatives or vicarious agents or
 - c. it involves claims that are based on a guarantee or a procurement risk that we have assumed or
 - d. it involves claims for damages or
 - e. it involves claims that are a part of Section 445b of the German Civil Code BGB.For cases a, to d., the statutory limitation periods shall apply. For case e., the statutory limitation periods shall also apply if the last contract in the supply chain constitutes a consumer goods purchase as defined by Section 474 of the German Civil Code (in particular, the end purchaser purchases an item from a company as a consumer); otherwise (that is should the end purchaser not constitute a consumer), the limitation period shall be 14 months.
- It shall remain subject to statutory provisions concerning suspension, suspension of expiry and concerning the commencement of the statute of limitations.
- In case of any legal deficiencies, clauses 1. and 2. shall apply accordingly.

VII. Retention of title

- If we have already been fully compensated for an item sold on delivery, ownership transfers on handover of the item to the purchaser, unless otherwise agreed.
- If we make a delivery or provide a service before payment completion — that is if the goods sold are delivered or services sold are provided at a time at which we have not yet or not yet fully received the sum owed for the corresponding goods (goods subject to retention of title) — the following shall also apply:
 - We reserve proprietary rights on all goods subject to retention of title delivered by us prior to the full payment of the price and in addition prior to all our receivables from the business relationship being met, irrespective of the legal ground and also from contracts concluded at a later date — including all contingent liabilities (in part or combined with other items, we acquire co-ownership of the new item in a share that corresponds to the ratio of the invoice value of our goods subject to retention of title to the overall value.
 - In the event that the retention of title only becomes valid upon entering into a specific register and/or upon compliance with other specific legal requirements, the purchaser shall be obligated to establish these requirements. Any costs arising as a result shall be borne by the purchaser.
 - The purchaser is entitled to further process and resell the goods subject to retention of title in the ordinary course of business, provided that the purchaser is not in default with respect to the fulfilment of obligations owed to us or provided that the purchaser does not suspend payments.

Specifically, the following applies:

- For us as the manufacturer, the processing or transformation of the goods subject to retention of title takes place within the meaning of Section 950 of the German Civil Code (Bundesgesetzbuch, BGB), without us being bound by this. By processing or transforming the goods subject to retention of title, the purchaser does not acquire ownership of the new item(s), if the goods subject to retention of title are processed, mixed, amalgamated or combined with other items, we acquire co-ownership of the new item in a share that corresponds to the ratio of the invoice value of our goods subject to retention of title to the overall value.
The provisions applicable to the goods subject to retention of title apply accordingly to the co-ownership share arising in accordance with the aforementioned provisions.
- The purchaser hereby assigns to us receivables from the resale or other sales transactions, such as contracts for labour and materials with all ancillary rights, and proportionately to the extent that the goods subject to retention of title have been processed, mixed or amalgamated and we have acquired co-ownership of them at the amount of our invoice value or the goods have been permanently installed. If the goods subject to retention of title are processed, mixed, amalgamated or permanently installed, we are entitled to a corresponding first-tier priority fraction of the respective receivable from the resale in the ratio of the invoice value for our goods subject to retention of title to the invoice value of the item.
If the purchaser sells goods subject to retention of title together with other goods not supplied by us, the purchaser hereby assigns to us a first-tier priority share of the receivable from the resale at the amount of the invoice value for our goods subject to retention of title.
If the purchaser has sold this receivable as part of real factoring, they hereby assign the receivable that replaces it to us. If the claim from resale by the purchaser is placed in a current account relationship with their customer, the purchaser hereby assigns their receivables from the current account relationship to us at the amount of the invoice value for the goods subject to retention of title.
The assignment does not solely include payment claims, but also claims for surrender, with particular reference to instances where the purchaser also resells under retention of title.

c. We hereby accept the above assignments.

d. The purchaser is entitled to collect receivables assigned to us until we revoke such authorisation to do so. Authorisation to collect receivables expires on revocation, which is effective on payment default or suspension of payments by the purchaser. The same applies to a significant deterioration in the purchaser's financial circumstances which jeopardise our claim. In these cases, we are authorised by the purchaser to notify customers of the assignment and to collect receivables ourselves.

e. The purchaser is obligated to provide us with a precise list of receivables owed to the purchaser, detailing the company/name and address of the respective customer, the amount of individual receivables and the invoice date, and to provide us with all information and documentation required to assert the assigned receivables, and to give per-mission for this information to be checked. The purchaser is obligated to ensure the legal admissibility of this data transmission, for example by obtaining an appropriate declaration of consent from their customer.
If the purchaser is not in default towards us and if they have not suspended their payments, then it is sufficient that pseudonymisation of the customer data is carried out instead of the personal data, with regards to the preparation; in addition, it must be indicated whether the customer is a contractor or a consumer; a unique and individual pseudonym must be used for every customer.

f. Amounts that are received by the purchaser from accounts receivable that have been assigned to us shall be set aside specially for us prior to payment.

g. It is not permitted to pledge goods subject to retention of title or assign goods subject to retention of title as security. The same applies to assigned receivables. We must be informed of any seizures immediately, with details of the creditor.

h. If the value of the security to which we are entitled exceeds our total receivable against the purchaser by more than 10%, we are obligated to release it at the request of the purchaser.

i. In the case of payment default or suspension of payment by the purchaser, we are entitled to take back the goods subject to retention of title and in accordance with additional statutory requirements. We may settle our claims from the recovered goods subject to retention of title.

j. The purchaser shall store the goods subject to retention of title for us free of charge. They must insure them against common risks, such as fire, theft and water, to the usual extent. The purchaser hereby assigns their claims for compensation owed from insurance companies or other obligated parties as a result of damage of the aforementioned type in the amount of our receivables. We accept the assignment.

VIII. Return of Goods

- All returns must be registered with us beforehand by way of the return of goods form designed for this purpose.
- We will arrange for collection of the goods, irrespective of whether it is a return from a warranty case as a result of a material defect, another claim in accordance with our terms and conditions of return or any other return of goods which we have authorized. Any returns beyond this cannot be accepted.
- In the event of any other claims or return of goods, the articles to be returned must be obtained from us, in their original packaging and undamaged. If this is not the case, we have the right to reject the goods and refuse to credit the purchase price. Special orders cannot be returned.
- For any other return of goods, which we are not obligated to accept, a deduction of 15% for invoice net value up to 250 €, respectively 7,5% for invoice net value more than 250 €, will be calculated for restoring costs or other expenses. Verifiable greater expenses will be enforced by PV Technik.
- Credit notes for returned goods may only be used up to the amount of the purchase price paid by the customer, i.e. they may not be settled or paid out above the discounted amount if the invoice amount in question was paid taking advantage of the discount. We are entitled to offset the credit notes for returned goods against our accounts receivable from the customer immediately.

IX. Data Protection, Credit Assessment

- We have the right to electronically store and process all information concerning the purchaser with respect to the business relationship in compliance with the Bundesdatenschutzgesetz [Federal Data Protection Act], for the purpose of concluding the contract. In this respect, we wish to refer to our data protection regulations and the rights of the data subject affected, which can be accessed at www.pvautomotive.de/datenschutz/erklarung/.
- Please note that we shall carry out an assessment of the credit risk on the basis of mathematical-statistical procedures (so-called scoring) at credit bureaus before concluding a contract. For this purpose, some corporate and personal data may be accessed for the credit assessment to the specialist credit bureau in question, such as in particular: Company, name and address.
The collection, storage and transmission shall thus take place for the purpose of the credit assessment to avoid a payment default and is in accordance with Article 6 (1) (i lit.) (b) of the GDPR and Article 6 (1) (i lit.) (f) of the GDPR. On the basis of the information, the statistical probability of a credit default, and thus your ability to pay will be calculated. If a credit assessment is carried out and if this check is favourable, then a purchase on invoice will be made possible. If the credit assessment is negative, then the conclusion of a contract will only be possible in individual cases and after additional individual negotiation.

X. Other

- Provided that the purchaser is a trader for the purpose of the HGB [German Commercial Code], a corporate body subject to public law or a separate estate under public law, the Essen venue is reserved in accordance with provisions of exclusive venue according to § 40 sect. 2 ZPO [code of civil procedure]. This applies in the event that the purchaser does not have a general venue in Germany, relocates from his domicile or habitual place of residence within the country after the formation of a contract or when his domicile or habitual place of residence is unknown at the time of commencement of proceedings.
In the aforementioned cases, we are also entitled to take legal action against the purchaser at their general court of jurisdiction. If the general court of jurisdiction of the purchaser is outside the Federal Republic of Germany.
- The contract is subject exclusively to the laws of the Federal Republic of Germany as between two contract partners domiciled within the country, and excluding the UN Sales Convention (CISG) as well as to the exclusion of legal norms that refer to foreign legal norms (private international law).
- Should individual provisions of the general terms and conditions of sale become void, the validity of the contract will not be affected by this. Insofar as provisions are void, the content of the contract will be determined by statutory provisions.

PV Technik GmbH, October 2020

Units of Quantity

DP = Display	H = Hour	KG = Kilogram	KM = Kilometre	M2 = Square Metre
l = Litre	M = Metre		SP = Sleeve Packaging	

Units of Price

1 = Per	2 = Per 100	3 = Per 1.000
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The original part number indicated is only for the purposes of comparison and should not be recorded under any circumstances by customers who operate a workshop or resell replacement parts in any other way or in the invoices or accounting records of their end clients.