

## General Terms and Conditions of Delivery and Payment

### Sec. 1 Preface

The following General Terms and Conditions of Delivery and Payment apply to all delivery transactions with Wieland Antriebstechnik GmbH & Co. KG, hereinafter referred to as the "Seller." All offers, deliveries, and performances of the Seller are made exclusively based on these terms. These terms and conditions also apply to all future business relationships, even if they are not expressly agreed on again. These terms and conditions are also deemed accepted at latest upon receipt of the goods or performances. Acknowledgements by the Buyer referring to its own terms and conditions are herewith expressly accepted.

### Sec. 2 Offer and contract conclusion

The Seller's offers are subject to change and non-binding. Declarations of acceptance and orders must be confirmed by the Seller in writing or via facsimile to be legally valid. The Seller's sales employees are not authorised to enter into additional verbal agreements or to give verbal guarantees, which exceed the content of the written contract. Drawings, images, technical data or references to standards are not warranted characteristics. The written form requirement may also only be waived in writing. The Buyer is not authorised to assign to third parties claims from the contractual relationship.

### Sec. 3 Prices and ancillary costs

All prices are quoted from the closest distribution centre of the Seller and considered to be net. If the Seller arranges the shipping for the Buyer, the Buyer must bear all costs incurred thereby. Shipping occurs in the customary manner without liability for the lowest priced shipping, unless the Buyer has given special instructions. In the event that a damaged shipment is received, the Buyer is obligated to obtain the necessary documents to prove the damage and to immediately inform the Seller in writing hereof, even if the Seller bears the transport risk. This also applies accordingly for the loss of goods during transport.

### Sec. 4 Delivery

Delivery dates, even if indicated in writing, are never binding. Even in case of binding dates and deadlines, the Seller is never responsible for delays due to *force majeure*, which includes especially strikes, lockouts, interruptions to production, or official decrees, also when they occur at the Seller's supplier or their sub-suppliers. These entitle the Seller to delay delivery by the duration of the hindrance and a reasonable period of time to start backup or to fully or partially rescind from either from the contract in its entirety or from the as yet unfulfilled part of the contract in full or in part. The same also applies to all other cases, in which the delivery is delayed or becomes impossible due to reasons for which the Seller is not responsible. The Buyer may only rescind from the contract if a delivery date was expressly stipulated as binding, the deadline was missed by the Seller, an extension of at least two weeks was given in writing, and this deadline, which begins upon receipt of the extension notice at our office, expired without result.

### Sec. 5 Transfer of risk

The risk transfers to the Buyer as soon as the shipment has been handed over to the person handling the transport or has left the Seller's or a sub-supplier's warehouse for the purpose of shipping. If the shipment is delayed per request of the Buyer, the risk will transfer to the Buyer at the time, notice of the readiness for shipment is made. The same applies to the exercise of retention rights by the Seller. In this case, we are entitled to demand a reasonable amount of storage fees.

### Sec. 6 Warranty

The goods are to be examined immediately after arrival at the destination and treated with the diligence of a prudent business man. In case this examination is omitted, any warranty liability of the Seller for defects in the goods is excluded, unless they are caused by intent or gross negligence. The conditions of the goods are deemed accepted if the Buyer fails to make immediate notice of defect in writing after arrival of the goods at the destination, at latest after 10 days, or if the Buyer resells the goods. Receipt of the notice of defect at the Seller's named destination is pivotal. Hidden defects are to be reported without undue delay after their discovery. Inasmuch as the Buyer has properly exercised its warranty rights, the Buyer may, at the Seller's option, demand, a replacement free of cost or rectification of the goods, which are faulty or do not correspond to the agreed conditions. In the event that a replacement is impossible or would incur unreasonably high costs, the Buyer is restricted to a reduction of the purchase price or to rescind from the contract. Further claims are excluded, regardless of their cause. In addition, all claims for compensation are excluded unless these are based on fraudulent misrepresentation, lack of expressly warranted characteristics, gross negligence, intent, or breach of the main contractual obligations, or unless mandatory liability is otherwise stipulated by law.

### Sec. 7 Payment

All of the Seller's invoices are to be paid without discount immediately upon receipt. Explicit written confirmation by the Seller is necessary to grant a discount. The Seller is not obligated to accept checks or bills of exchange; their acceptance is, however, only made in lieu of payment. Discount fees and expenses for bills of exchange are to be borne and paid by the Buyer immediately. If the Seller becomes aware of circumstances that call into question the Buyer's creditworthiness (in particular, if a check bounces or the Buyer suspends payments), the Seller is entitled to accelerate the maturity of the entire remaining debt and return the check. The same applies if the Buyer is in default of payment for other deliveries. In these cases, the Seller may also demand prepayment and security.

If the Seller also demands compensation for non-fulfilment, the damage is assessed at 30% of the net sales price without any further determination. The Buyer remains free to demonstrate that the Seller incurred less damage.

The exercise of rights of retention or offsets counter-claims, regardless of their type or on what legal grounds, or of other deductions is impermissible. This does not apply to counter claims that have been recognised by declaratory judgement or are undisputed. The Buyer may, however, also exercise rights of retention based on the same contractual relationship.

### Sec. 8 Retention of title

The Buyer grants the following security, which will be released on request as soon as the security's value sustainably exceeds 20% of the value of the claims, until all of the claims (including all claims on current account balances), to which we are entitled from the Buyer now or in the future, have been settled.

**The goods remain our property until payment is made in full.**  
If the Buyer is a merchant, the Buyer is entitled to resell the goods subject to retention of title in the proper course of business. The Buyer is, however, only entitled to resell the goods to end consumers. Resale to resellers is expressly forbidden. The Buyer herewith already assigns all claims resulting from the resale or based on other legal grounds (insurance, tort) with regard to the goods subject to retention of title, including all claims on current account balances, as security to their full extent to the Seller. The Seller revocably authorises the Buyer to collect the claims, which are assigned to the Seller, on the Seller's account and in the Buyer's name. This authorisation to collect may only be revoked if the Buyer is

in default of payment. In this case, the Buyer is obligated to disclose the names, addresses, and amount of claims of all persons, to whom the goods subject to retention of title were sold by the Buyer. Goods may not be pledged or transferred as security. As long as the Buyer is not in default of payment, the Seller will not disclose the assignment. In the event that third parties access the goods subject to retention of title (in particular, pledges), the Buyer will point out the ownership of the Seller to the third party and notify the Seller immediately, so that the Seller may enforce ownership rights. The Buyer will be liable for court costs or out-of-court expenses that the Seller incurs in this context, if the third party is unable to reimburse the Seller.

In the event that the Buyer acts in breach of the contract (in particular, by default of payment, suspension of payments, or filing for insolvency), the Seller is entitled to take back the goods subject to retention of title or, if applicable, to demand assignment of the Buyer's claims against third parties for recovery of property. The taking back and pledging of the goods subject to retention of title by the Seller does not constitute a rescission from the contract.

### Sec. 9 Property rights

For goods that are not manufactured according to the Buyer's drafts, descriptions, or instructions, we ensure that these do, to our best knowledge, not violate any existing patents in the United States or Europe for the goods themselves. This warranty does not, however, apply if the goods are used in connection with other goods or materials, or if they are used in processes or in the manufacture of products.

If the Buyer becomes aware of claims that the goods violate existing patents in the United States or Europe, the Buyer is to inform us immediately thereof and support us with information and assistance, as well as transfer to us the exclusive responsibility for the assessment, defence and settlement of the claims.

The Buyer indemnifies us from all claims, regardless of their legal grounds, in case of alleged violations of third party rights as well as claims based on product liability or warranty, inasmuch as the goods produced or sold by us were manufactured according to the Buyer's drafts, descriptions, or instructions. This also applies to the necessary costs for legal defence.

### Sec. 10 Confidentiality, moulds and tools, contractual penalty

The Buyer is forbidden to disclose to third parties confidential information with regard to the subject matter of the contract without prior written approval of the Seller. All descriptions, drawings, drafts, material information, manufacturing and process data, as well as other information of the Seller disclosed to the Buyer are the sole and exclusive property of the Seller. The Buyer agrees not to copy, use, or disclose these documents to third parties without the Seller's prior written consent. Upon demand of the Seller, these documents are to be returned to the Seller in the course of the Seller's performance or thereafter. This also applies after cancellation, termination, fulfilment, or conclusion of the contract in question.

All moulds, tools, and equipment ("tools") used to manufacture the goods of Wieland Antriebstechnik GmbH & Co. KG or the Wieland Antriebstechnik GmbH are, independent of whether paid for by the Buyer or the Seller, business secrets and protected technology of the Seller, who has the sole right of use thereof.

Tools used to manufacture the goods of Wieland Antriebstechnik GmbH & Co. KG may not be removed from the production facility of the Seller.

The Buyer does not receive information with regard to the use, size, design, etc. of tools before, during, or after the conclusion of the order for the contractual goods. The method of designing and manufacturing tools for goods of Wieland Antriebstechnik GmbH & Co. KG remain the property of the Seller. Upon the Buyer's demand, the Seller will destroy tools paid for or provided by the Buyer to manufacture the goods of Wieland Antriebstechnik GmbH & Co. KG and will, upon demand, provide the Buyer with a notarised confirmation of the execution thereof.

In the event that one or more provisions of this section are breached culpably, the Buyer shall forfeit a contractual penalty of EUR 10,000.00.

### Sec. 11 Data protection

Pursuant to Sec. 28 of the German Federal Data Protection Act (i.e., the *Bundesdatenschutzgesetz*, hereinafter referred to as "BDSG") we call attention to the fact that data necessary for business transactions will be processed and stored by EDP pursuant to Sec. 33 BDSG. The customer consents to a transfer of all necessary contract-related data to our factor, inasmuch as this is admissible after the conflicting interests have been weighed.

### Sec. 12 Limitation of liability

All compensation claims, regardless of their legal grounds, against the Seller or its vicarious agents are excluded unless they are based on:

- breach of the main contractual obligations;
- intention or gross negligence;
- injury to life, body, or health;
- product liability.

In each case, the liability is limited to the foreseeable damage. This is generally calculated on the basis of the value of the respective delivery.

### Sec. 13 Place of performance, jurisdiction, severability

The place of performance and exclusive jurisdiction for both Parties is Hanover, Germany, if the Buyer is a registered merchant (i.e., a *Vollkaufmann*) pursuant to the German Commercial Code (i.e., the *Handelsgesetzbuch*), a legal entity under German public law, or a special fund under German public law. Inasmuch as individual terms above are invalid, the Parties agree to stipulate a valid provision that most closely resembles the invalid provision. The validity of the remaining terms remains unaffected thereby.

### Sec. 14 International transactions

In addition, the following terms and conditions apply to international transactions:

- All transactions, including check transactions, are subject to the German civil and commercial law. The provisions of the law of conflicts and of the CISG are excluded.
- For delivery abroad, the Seller may demand prepayment or letter of credit (L/C). If nothing else is agreed, delivery shall be made payment against documents (P/D). Payment shall be made in Euro.
- Duties, fees, charges, and any taxes from the execution of the contract and delivery are born by the purchaser, excluding taxes which are imposed by the Seller's country of domicile.
- We are entitled to file suit against the purchaser in its country of domicile. Should the competent court there reject the applicability of German law, the contractual relation is subject to the provisions of the CISG under observance of the stipulations agreed to in these terms.
- The Seller is also entitled to assert claims against the purchaser in arbitration proceedings under exclusion of recourse to the ordinary courts of law. The proceedings are to be conducted at the Chamber of Commerce and Industry in Hanover, Germany (*Industrie- und Handelskammer Hannover*) according to the rules of the UN Arbitration Rules.

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