

# TERMS AND CONDITIONS OF SALE AND DELIVERY

## of ASISTA Teile fürs Rad GmbH & Co. KG

### 1. Scope of application

1.1. These Terms and Conditions of Sale and Delivery only apply to businesspeople exercising their commercial or independent professional activity, to legal entities under public law, and to special funds under public law.

1.2. All agreements that are made between us and the customer for the purpose of executing the contract are fully recorded in writing. All promises made by our employees and verbal, telephone agreements that deviate from or supplement our Terms and Conditions of Sale and Delivery are only legally binding after they have been confirmed by us in writing.

1.3. By placing an order, the customer accepts our Terms and Conditions of Sale and Delivery. Our Terms and Conditions of Sale and Delivery apply to the entire current and future business relationship between the customer and us. Terms and conditions of the customer's that contradict, supplement or deviate from these Terms and Conditions of Sale and Delivery do not become part of the contract unless we have agreed to their validity in writing. These Terms and Conditions of Sale and Delivery also apply if we make a delivery to the customer without reservation in the knowledge of conflicting, additional or deviating terms and conditions on the part of the customer.

### 2. Conclusion of a contract in the dealer shop

The goods and services offered via our dealer shop do not yet represent an offer to conclude a contract, but merely an invitation to place an order. By placing an order, the customer makes us an offer to conclude a contract. Confirmation of receipt of the order does not constitute acceptance of the offer. This only serves to inform the customer that we have received the order. The contract is concluded when the ordered items are dispatched. The contract language is German. We do not store the text of the contract.

### 3. Delivery times, scope of delivery, changes to design and form, right of withdrawal

3.1. The specified delivery times and dates are non-binding, unless they have been expressly agreed as binding delivery times or dates.

3.2. The scope of delivery is determined by our written order confirmation.

3.3. We reserve the right to make changes to the design or form that can be attributed to improvements in technology or changes in the law, provided that the delivered item is not changed significantly and the change is reasonable for the customer.

3.4. If, after conclusion of the contract, we become aware of facts that give rise to reasonable doubts about the solvency of the customer, or if the customer does not properly meet its payment obligations under another contract with us, we shall be entitled to demand payment in full or an appropriate security deposit prior to delivery. If the customer does not comply with this request within the reasonable period that is set, we shall be entitled to withdraw from the contract. In addition to payment default, information from a bank, credit agency, company with which the customer has a business relationship, or the like, that is issued in accordance with the diligence of a prudent businessman shall be deemed evidence of a significant deterioration in assets. If delivery has already taken place, the outstanding invoice amounts will become due for payment immediately, regardless of the agreed terms of payment, if applicable, with return of the acceptances. Our other rights remain unaffected. The customer does not attain the right to raise any kind of claim against us if we make use of our above rights. This does not apply to claims of the customer's for repayment of any payments already made.

### 4. Prices

4.1. Price changes are permitted if there is a period of more than 4 months between conclusion of the contract and the agreed delivery date, or a period of more than 6 weeks if the customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law, or a special fund under public law. If wages, material costs or the market acquisition prices change between the point of conclusion of the contract and delivery, we shall be entitled to adjust the price appropriately and in accordance with the cost increases. In the event of a price increase of more than 5%, the customer is entitled to withdraw from the contract.

4.2. Unless we have specified other conditions, our prices are ex-works and exclude packaging and shipping costs, insurance, statutory taxes, customs duties and other charges.

### 5. Payments

Invoices are generally payable within 14 days of the invoice date. However, if our order confirmation contains other terms of payment, those terms in the order confirmation apply. Payments are only to be made to the accounts or entities that we have assigned. In the event of default in payment, we shall be entitled to charge default interest at a rate of 9 percentage points p.a. above the base rate. The right to claim further default interest and dunning fees is reserved. If an invoice is not paid when it is due, or an issued cheque or bill of exchange is not honoured, any pending cheques or bills of exchange and outstanding invoices shall become due immediately. We can request prepayment or cash on delivery for outstanding deliveries.

### 6. Tax identification number

If the customer does not provide us with a tax identification number, or provides us with an incorrect tax identification number, we reserve the right to make a subsequent charge for the tax.

### 7. Right of retention, offsetting

7.1. The customer is only entitled to a right of retention if its counterclaim is based on the same contractual relationship.

7.2. The customer is not entitled to make any offsets against any claims we have. This does not apply insofar as the customer offsets claims that are undisputed or which have been established in a court of law.

### 8. Transfer of risk, shipping

If, at the request of the customer, we send the sold item to a location other than the place of performance (Leutkirch), the risk transfers to the customer as soon as we have delivered the item to the freight forwarder, the carrier or the person or institution otherwise assigned to carry out the shipment.

### 9. Complaints, liability for defects, general liability

9.1. If the purchase is a commercial transaction for both parties, obvious defects must be reported in writing immediately, at the latest within 8 days of delivery of the goods. Hidden defects must be reported in writing immediately after they are discovered, but no later than 8 days after discovery. The accompanying letter that we provide for returns must be filled out and enclosed alongside the goods being returned, taking into account the return conditions.

9.2. In the event of defects in the goods, we are entitled, at our choosing, to rectify the defect either by repairing it or by delivering a defect-free item (supplementary performance). If the supplementary performance fails, the customer has the right, irrespective of any claims for damages or for reimbursement of expenses, to either reduce the price or withdraw from the contract.

9.3. The limitation period for claims for defects on the part of the customer is one year, unless they

relate to a consumer goods purchase taking place at the end of the supply chain (i.e., the end customer is a consumer). Insofar as the defective products have been used for a building, in conformity with their normal use, and have caused a defect in it, or if the defect in question is in a building, the limitation period is five years. This limitation period also applies to claims in tort that are based on a defect in the products. The limitation period begins upon delivery of the products. The reduction of the limitation period does not apply in cases of unlimited liability for damages resulting from a breach of a guarantee or from injury to life, limb or health, in cases of wilful misconduct or gross negligence, in the event of product defects, or if we have taken on a procurement risk. Any opinion we provide on an alleged claim for defects by the customer is not to be regarded as an entry into negotiations about the claim or about the circumstances giving rise to the claim so long as we have rejected the claim for defects in its entirety.

9.4. We bear unlimited liability for damage resulting from a breach of a guarantee or from injury to life, limb or health. The same applies for damages resulting from wilful misconduct or gross negligence or if we have taken on a procurement risk. We shall only be liable for damages resulting from slight negligence if essential obligations are breached that are typical for the contract in question and which are of particular importance for achieving the purpose of the contract. In the event of such breaches, as well in cases of default or the inability to fulfil the contract, our liability shall be limited to such damages that might typically be expected for such contracts. The mandatory statutory liability for product defects remains unaffected. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, personnel, representatives and agents.

### 10. Product liability

10.1. The customer will not modify the goods; in particular, it will not modify or remove any warnings that are present about dangers in the event of improper use of the goods. In the event of a breach of this obligation, the customer will indemnify us and hold us harmless within the internal relationship between the parties from and against any third-party product liability claims, unless the customer is not responsible for the modification of the products.

10.2. If we are prompted to recall a product or issue a product warning due to a product defect in the goods, the customer will do its best to assist in the measures that we consider necessary and expedient and will support us in this, in particular, in ascertaining the required customer data. The customer is obliged to bear the costs for the product recall or warning, unless it is not responsible for the product defect according to the principles of product liability law. Further claims on our part remain unaffected.

### 11. Retention of title

11.1. The goods delivered by us remain our property until payment of the purchase price in full, including all ancillary claims, and the retention of title extends to all of our deliveries so long as there is still any claim at all on our part. We are entitled to withdraw from the contract in order to assert our retention of title.

11.2. The processing or transformation of goods that are subject to retention of title shall always be performed on our behalf without our incurring any obligations on our part. The customer's right to future enjoyment of the goods which are subject to retention of title shall continue to exist with respect to the processed or transformed item. If the goods subject to retention of title are processed or transformed with other items that do not belong to the customer, we shall acquire co-ownership of the new item in the ratio of the value of the delivered goods to the other processed or transformed items at the time of processing or transformation. The same applies if the goods are combined or mixed with other objects that do not belong to us in such a way that we lose our full ownership. The customer shall store the new items for us with the due care of a prudent businessman. In all other respects, these same provisions apply to the item resulting from the processing or transformation or from any combination or mixing just as they do to the products that are subject to retention of title.

11.3. The customer is entitled to resell the goods delivered by us in the ordinary course of its business in its own name and for its own account. If the customer sells the goods that are subject to retention of title – regardless of the condition they are in – it hereby already assigns to us the claims that result from the resale of the goods, along with all ancillary rights. We hereby accept this assignment. The customer is authorised, subject to revocation, to collect the claims which have been assigned to us in its own name as a trustee on our behalf. The collected amounts are to be paid to us immediately. We may revoke the authorisation of the customer to collect claims on our behalf, as well as the customer's entitlement to resell the goods for cause – in particular, if the customer is in default of payment. In the case of any global assignment by the customer, the claims assigned to us must be expressly excluded.

11.4. At our request, the customer is obliged to notify subcontractors of the assignment immediately and to give us the information and documents that are required for us to assert our rights against the subcontractors without delay.

11.5. If the value of the realisable securities given to us exceeds our claims by more than 15% in total, we shall be obliged to release the securities to that extent at the request of the customer. The selection of securities to be released shall be at our discretion.

11.6. The customer is not entitled to pledge the goods that are subject to retention of title or to transfer them to third parties as security. If the goods that are subject to retention of title are seized by third parties, the customer is obliged to notify us of this in writing without delay.

### 12. Rights of ownership and property rights

12.1. We reserve all rights of ownership, copyrights and other property rights to all types, models, drafts and documents, etc. The customer is not permitted to reproduce types and models, etc., to secure any property rights in them or to exploit them in any other way, unless this is permitted by law.

12.2. Information and drawings, etc., of the customer's relating to the delivery item are only binding for us after we have expressly confirmed them in writing. If we manufacture a delivery item based on drawings, developments or other information provided by the customer, the customer guarantees that the manufacture and delivery of this delivery item does not infringe on any domestic or foreign patents, utility models, licences or other property rights or copyrights of third parties. If claims are made against us by a third party due to a violation of such rights as a result of the manufacture or delivery of such a delivery item, the customer is obliged to indemnify us from and against these claims, unless it is not responsible for the breach of duty.

### 13. Force majeure

Insofar as any force majeure event, such as war, natural disasters, pandemics or other unforeseeable circumstances for which we are not responsible, in particular, operational disruptions, strikes and lockouts, export bans, etc., prevents us from fulfilling our contractual obligations, in particular, from delivering the goods, we shall be released from our delivery obligation for the duration of the obstacle plus a reasonable start-up time, without being obliged to pay damages to the customer. To the extent that we are released from our obligation to deliver, we shall return any advance payments that have been made to the customer. We shall be entitled to withdraw from the contract after a reasonable period has elapsed if such an obstacle lasts for more than four months and we consequently no longer have any interest in fulfilling the contract. At the request of the customer,

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after this period has expired, we will declare whether we will make use of our right of withdrawal or whether we will deliver the goods within a reasonable period.

#### **14. Place of performance, jurisdiction, applicable law**

14.1. The place of performance for delivery and payment is Leutkirch.

14.2. If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, then all legal actions arising from any dispute under the contractual relationship are to be brought exclusively at the courts that have jurisdiction at our headquarters. We are also entitled to file actions at the customer's headquarters.

14.3 The laws of the Federal Republic of Germany apply exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

#### **15. Transfer of rights and obligations, severability clause**

15.1. The transfer of rights and obligations of the customer under the contract concluded with us to third parties requires our prior written consent to be effective.

15.2. Should any provision of these Terms and Conditions of Sale and Delivery be or become ineffective or unenforceable, this shall not affect the validity of the other provisions. In place of the ineffective or unenforceable provision, an effective or enforceable provision that comes as close as possible to the intent of the ineffective or unenforceable provision shall be deemed to have been agreed.