

A Scope of application

1. These General Terms and Conditions of Sale for Used Vehicles Commercial ("GTCSU") shall apply to the sale of used vehicles to the Buyer. However, the GTCSU shall only apply if the Buyer is an entrepreneur (Section 14 BGB), a legal entity under public law or a special fund under public law within the meaning of Section 310 (1) BGB.
2. Our GTCSU apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions (GTC) of the Buyer shall only become part of the contract if and insofar as we have expressly agreed to their validity. This requirement of consent shall also apply if the Buyer refers to its GTC within the scope of the order and we have not expressly objected to the GTC.
3. These GTCSU apply to contracts for the sale (purchase contract) and/or delivery of movable goods ("object of purchase"). Unless otherwise agreed, the GTCSU shall also apply in the version valid at the time of the Buyer's order or in the version last communicated to him in text form as a framework agreement for similar future contracts, without us as the Seller having to refer to them again on a case-by-case basis.
4. Individual agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) and information in our order confirmation shall take precedence over these GTCSU. Subject to proof to the contrary, a written contract or our written confirmation shall be decisive for the content of such agreements.
5. Legally relevant declarations and notifications of the buyer with regard to the contract (e.g. notifications of defects, setting of deadlines, withdrawal or reduction) must be made in writing, i.e. in written and text form (e.g. letter, e-mail). Further statutory formal requirements and further evidence (if necessary in case of doubt about the legitimacy of the declarant) remain unaffected.
6. If references are made to the validity of statutory provisions, it should be noted that these are for clarification purposes only. The statutory provisions shall apply - even if no corresponding clarification has been made - to the extent that they are not amended or excluded by these GTCSU.

B Offer and conclusion of contract

1. Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogs, technical documentation (e.g. drawings, plans, calculations, references to DIN standards) and other product descriptions or documents (including in electronic form). We reserve the property rights and copyrights to all documents provided to the Buyer in connection with the placing of the order. These documents may not be made accessible to third parties unless we give the Buyer our express written consent.
2. A purchase contract shall only be concluded if the buyer has demonstrably sent us a bindingly signed order and we as the seller confirm the acceptance of this order - within a maximum period of six weeks after receipt of the order - by our signature.
3. In the event that we as the seller do not accept the buyer's order within the period specified in section B.2, no purchase contract shall be validly concluded and all documents sent to the buyer shall be returned to us without delay.
4. At our request as seller, the buyer is obliged to provide proof of financing for the object of purchase (bank confirmation or confirmation of purchase from a leasing company). If the proof of financing is not provided within a reasonable period of time, we as the seller are entitled to withdraw from the contract. This shall not affect our claim for damages as the seller.
5. If the contract is canceled by mutual agreement, the buyer must pay a cancellation fee of 15% of the invoice amount including the applicable VAT, without prejudice to our right to claim any additional damages.
6. Our representatives have no authority to conclude contracts, they are only intermediaries. We shall not be bound by verbal agreements made with our representatives; special agreements deviating from the written contract and these GTCSU shall only be effective in writing and require our express acceptance.
7. The Buyer is obliged to comply with the applicable export control and sanctions regulations and laws of the European Union (EU), the United States of America (US/USA) and other jurisdictions ("Export Control Regulations").

C Prices and payment agreements

1. Unless otherwise agreed in writing in individual cases, our current prices at the time of conclusion of the contract shall apply ex warehouse, plus statutory VAT. The costs of packaging shall be invoiced separately. Unless a fixed price agreement has been made, we reserve the right to make reasonable price changes due to changes in labor, material and distribution costs for deliveries made three months or more after conclusion of the contract.
2. Within the framework of a sales shipment, the buyer shall bear the transportation costs ex warehouse and the costs of any transportation insurance requested by the buyer. In the event that we do not invoice the transportation costs incurred in the individual case, we shall charge a flat-rate transportation fee customary in the industry (excluding transportation insurance). Any customs duties, fees, taxes and other public charges shall be borne by the buyer.
3. Payment of the purchase price must be made exclusively by bank transfer to the business accounts specified by us. The deduction of a discount is only permitted if specifically agreed in writing. We are entitled to send invoices electronically to the e-mail address provided by the buyer.
4. Unless otherwise agreed, the purchase price shall be due and payable immediately upon provision of the object of purchase for handover or acceptance. 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. We shall declare a corresponding reservation at the latest with the order confirmation.
5. The buyer shall be in default if the above payment period expires. During the period of default, interest shall be charged on the purchase price at the applicable statutory default interest rate pursuant to Section 288 (2) of the German Civil Code (BGB) in the amount of eight percentage points above the respective base interest rate. We reserve the right to claim further damages caused by default. Our claim against merchants for commercial maturity interest in accordance with Section 353 HGB remains unaffected.
6. If it is foreseeable after conclusion of the contract that our claim to payment of the purchase price is jeopardized due to the buyer's inability to pay (e.g. due to an application for the opening of insolvency proceedings), we shall be entitled to refuse performance in accordance with the statutory provisions and, if necessary after setting a deadline, to withdraw from the contract (§ 321 BGB). In the case of contracts for which the manufacture of non-fungible items (custom-made products) is owed, we may declare our withdrawal immediately. The statutory provisions on the dispensability of setting a deadline shall remain unaffected in this respect.

D Rights of retention

The buyer shall only be entitled to rights of set-off or retention if his claim has been legally established or is undisputed and his counterclaim is based on the same contractual relationship.

E Delivery period and delay in delivery

1. The delivery period shall be agreed individually or specified by us upon acceptance of the order. Agreed delivery periods and delivery dates are non-binding and are always subject to correct and timely delivery by our suppliers.
2. The delivery period shall only commence at the end of the day of the order confirmation and the receipt of any agreed advance payment. If the buyer changes his order prior to delivery, the delivery period shall be interrupted and shall recommence upon receipt of the changed order or upon receipt of the signed order confirmation.
3. We reserve the right to make changes in design and form as well as deviations in color during the delivery period, provided that the utility value of the goods is not fundamentally changed as a result. All details in the descriptions regarding performance, weights, dimensions, speed, color shades etc. are to be regarded as "approximate".

4. In the event that we are unable to meet contractually agreed delivery deadlines for reasons for which we are not responsible, we must inform the buyer of this circumstance immediately and at the same time inform the buyer of the expected or new delivery deadline. If a delayed delivery cannot be made due to non-availability of the service even within the newly announced delivery period, we are entitled to withdraw from the contract in whole or in part; we must immediately reimburse any consideration already provided by the buyer (in the form of the purchase price payment). The non-availability of the service is given, for example, if our supplier has not delivered to us on time, if we have concluded a congruent hedging transaction, if there are other disruptions in the supply chain (e.g. due to force majeure) or if we are not obliged to procure in individual cases.

5. Whether we as the seller are in default of delivery shall be determined in accordance with the statutory provisions. However, the prerequisite for a delay in delivery by us as the seller is a reminder from the buyer. In the event that there is a delay in delivery, the buyer may claim lump-sum compensation for the damage caused by the delay. The liquidated damages shall amount to 0.5% of the net price (delivery value) for each completed calendar week of delay, but shall not exceed a total of 5% of the delivery value of the delayed goods. We reserve the right to prove that the buyer has suffered no damage or only less damage than the above lump sum.

6. 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/or subsequent performance), shall remain unaffected.

F Delivery, transfer of risk, acceptance, default of acceptance

1. Delivery shall be ex warehouse. The warehouse is also the place of performance for the delivery and the place for any subsequent performance. In the event that the buyer wishes to have the object of purchase sent to another destination (sale to destination), he shall bear the costs of shipment. In the event that nothing has been contractually agreed, we may determine the type of shipment (packaging, shipping route, transport company) ourselves.

2. Unless expressly agreed otherwise, the customer must accept and collect the object of purchase immediately after receipt of the written or verbal notification of completion at our place of business.

3. Transport insurance shall only be taken out at the request and expense of the customer.

4. The risk of accidental loss and accidental deterioration shall pass to the buyer upon handover of the object of purchase to the buyer. In the case of a sale by dispatch, the risk of accidental loss of the object of purchase, accidental deterioration of the object of purchase and the risk of delay shall pass to the Buyer upon delivery of the object of purchase to the forwarding agent or carrier. In the event that acceptance of the object of purchase is contractually agreed, this shall be decisive for the transfer of risk. Further statutory provisions of the law on contracts for work and services remain unaffected. If the buyer is in default of acceptance, this shall be deemed equivalent to handover or acceptance of the object of purchase.

5. In the event that the buyer is in default of acceptance or our delivery is delayed for other reasons for which the buyer is responsible, we shall be entitled to claim compensation from the buyer for the damage incurred, including additional expenses (e.g. storage costs). If this is the case, we shall charge the Buyer a lump-sum compensation amounting to 15% of the gross purchase price. Proof of higher damages and our statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump-sum compensation shall be offset against further monetary claims. However, the Buyer reserves the right to prove that we have suffered no loss at all or only a significantly lower loss than the above lump sum.

G Retention of title

1. We reserve title to the delivered object of purchase until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims). For the duration of the retention of title, we as the seller shall be entitled to hold the registration certificate Part II for the object of purchase.

2. Until full payment of the secured claims has been made, the objects of purchase subject to retention of title may neither be pledged to third parties nor assigned as security. The buyer must inform us immediately in writing in the event that an application is made to open insolvency proceedings or if third parties seize the objects of purchase belonging to us (e.g. seizures). If the third party is not in a position to reimburse us for the judicial and extrajudicial costs of an action pursuant to Section 771 of the German Code of Civil Procedure (ZPO), the customer shall be liable for the loss incurred by us.

3. In the event of a breach of contract by the buyer, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the object of purchase on the basis of the retention of title. The demand for return does not at the same time include a declaration of withdrawal; rather, we are entitled to merely demand the return of the object of purchase and reserve the right to withdraw from the contract. In the event that the buyer does not pay the purchase price due, we must have unsuccessfully set the buyer a reasonable deadline for payment before asserting these rights. This shall only apply insofar as the setting of such a deadline is not dispensable under the statutory provisions.

4. Until revoked in accordance with G. 4. lit. c to resell and/or process the objects of purchase subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition:

a. The products of our objects of purchase created by combining, mixing or processing shall be subject to retention of title at their full value, whereby we shall be deemed to be the manufacturer. In the event that the ownership rights of third parties continue to exist in the event of a combination, mixing or processing with the objects of purchase, we shall acquire co-ownership in proportion to the invoice values of the combined, mixed or processed objects of purchase. In all other respects, the same shall apply to the resulting product as to the objects of purchase delivered subject to retention of title. The purchaser also assigns to us for security purposes such claims against a third party which accrue to him through the combination of the reserved goods with a property. In this case, we accept the assignment.

b. The Buyer assigns to us already at this point in time in total or in the amount of our possible co-ownership share pursuant to G. 4. lit. a for security purposes the claims against third parties arising from the resale of the object of purchase or the product in the amount of the final invoice amount agreed with us (including VAT). We accept the assignment. The obligations of the buyer listed in G. 2. shall also apply with regard to the assigned claims.

c. The buyer remains authorized to collect the claim in addition to us. As long as the buyer fulfills his payment obligations to us, there is no deficiency in the buyer's ability to pay and we do not assert the retention of title by exercising a right in accordance with G. 3., we undertake not to collect the claim. If we assert the exercise of a right in accordance with G. 3., we may require the Buyer to disclose the assigned claims and their debtors, as well as that the Buyer provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In addition, we shall be entitled to revoke the Buyer's authorization to resell and process the goods subject to retention of title.

d. In the event that 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.

5. As long as ownership has not yet been transferred to him, the buyer is obliged to treat the object of purchase with care. In particular, he is obliged to insure it adequately at his own expense against theft, fire and water damage at replacement value. If maintenance and inspection work has to be carried out, the buyer must carry this out in good time at his own expense.

H Buyer's claims for defects

1. If the buyer is an entrepreneur (Section 14 BGB), a legal entity under public law or a special fund under public law within the meaning of Section 310 (1) BGB, the sale of the object of purchase shall, in deviation from the law, take place to the exclusion of any warranty for material defects.

2. This does not affect the rights of the buyer arising from separately issued guarantees, in particular from the manufacturer.

I Other liability

1. Unless otherwise provided for in these GTCSU, including the following provisions, we as the seller shall be liable for breaches of contractual and non-contractual obligations in accordance with the statutory provisions.

GENERAL TERMS AND CONDITIONS OF SALE OF USED VEHICLES COMMERCIAL (GTCSU)

Dietrich GmbH, An der Siegtalbrücke 16, 57080 Siegen



2. Within the scope of fault-based liability, we shall be liable for damages, irrespective of the legal basis, only in the event of intent and gross negligence. In the event of simple negligence, we shall be liable, subject to statutory limitations of liability (e.g. care in our own affairs; insignificant breach of duty), only

a. for damages resulting from injury to life, body or health.

b. for damages resulting from the breach of an essential contractual obligation (obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner relies and may also rely). In this case, however, our liability shall be limited to compensation for foreseeable, typically occurring damage.

3. The limitations of liability arising in accordance with I.2 shall also apply to third parties and in the event of breaches of duty by persons whose fault we are responsible for in accordance with statutory provisions. Insofar as a defect has been fraudulently concealed and a guarantee for the quality of the goods has been assumed, the limitations of liability shall not apply. This also applies to claims of the buyer under the Product Liability Act.

4. The buyer may only withdraw from or terminate the contract due to a breach of duty that does not result from a defect in the event that we as the seller are responsible for the breach of duty.

5. The Buyer's right of termination (in particular pursuant to Sections 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

6. The buyer is obligated to first file a claim with their insurance provider for any damage that is or would be covered by an insurance policy maintained by them. To the extent that damage is compensated by such insurance or would have been compensated had the insurance been properly maintained and the terms and conditions complied with, our liability is limited to the remaining and demonstrable disadvantages incurred by the buyer, in particular an agreed deductible as well as demonstrable additional premium costs. If an insurance benefit is not paid or is reduced for reasons falling within the buyer's sphere of responsibility or risk, we shall be liable only to the extent that the buyer would have remained liable had the insurance been in force and properly maintained. The foregoing provisions do not apply in cases of intentional breach of duty or grossly negligent breach of duty by our legal representatives, nor in cases of injury to life, limb, or health, or in cases of mandatory statutory liability.

J Choice of law and place of jurisdiction

1. The law of the Federal Republic of Germany shall apply to these General Terms and Conditions of Sale and the contractual relationship between us as the seller and the buyer, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

2. If the buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, our registered office in An der Siegtalbrücke 16, 57080 Siegen shall be the exclusive and also international place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. The same applies if the buyer is an entrepreneur within the meaning of Section 14 BGB.

3. We are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTCSU or an overriding individual agreement or at the buyer's general place of jurisdiction. This shall not affect overriding statutory provisions (exclusive places of jurisdiction).