

## **General Terms and Conditions**

### **A) General Provisions**

#### **§ 1 Scope, form**

- (1) These General Terms and Conditions (GTC) apply for all our terms and conditions with our customers ("Buyer"). For concluding contracts through our online shop, the corresponding online shop provisions in this GTC apply in addition. The GTC in this section A) apply only when the buyer is an entrepreneur (§ 14 of German Civil Code (BGB)). The special provisions in the section B) also apply if the customer is consumer.
- (2) Our GTC apply exclusively. Differing, conflicting or additional general terms and conditions of the buyer become a part of the contract only then and only to the extent that we have expressly consented to their validity. This requirement of consent applies in every case, for example, even if we unconditionally carry out the delivery to the buyer knowing their GTC.
- (3) Individual agreements made with the buyer in individual cases (including collateral agreements, addendums and amendments) always take precedence over this GTC. A written contract or our written confirmation is crucial for the content of such agreements, subject to counterevidence.
- (4) Legally relevant declarations and notifications of the buyer in relation to the contract (e.g. setting deadlines, notice of defects, withdrawal or reduction) must be submitted in writing, i.e. in written or text form (e.g. letter, email, fax). Formal legal requirements and other evidence, especially in case of doubts about the legitimation of the declaring party, remain unaffected.

#### **§ 2 General conclusion of contract**

- (1) Our quotations are non-binding. This also applies if we have provided the buyer catalogue, technical documentations (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – even in electronic format – to which we retain the proprietary and copyrights.
- (2) The ordering of goods by the buyer applies as binding offer of contract. Unless otherwise stated in the order, we are entitled to accept this offer of contract within two weeks after its receipt with us.
- (3) The acceptance of the order can be confirmed either in writing (e.g. by order confirmation) or by delivering the goods to the buyer.

#### **§ 3 Conclusion of contract in online shop**

- (1) The presentation and advertisement of articles in our online shop does not constitute a binding offer for concluding a purchase contract.
- (2) Orders over the online shop are made by clicking the button "order with liability to pay". With this, the buyer submits a legally binding order. The buyer is bound to his order for the duration of two weeks after submitting the order.
- (3) We shall confirm without delay the receipt of the order submitted through our online shop by an email. Such an email does not contain a binding acceptance of the order yet, unless we concurrently declare the acceptance apart from the confirmation of the receipt.
- (4) A contract comes into effect only when we accept the online order by declaration of acceptance or through the delivery of the ordered goods.
- (5) If the delivery of the goods ordered by you should not be possible, for instance, because the corresponding good is not in stock, we shall not declare the acceptance. In such a case, the contract does not come into effect. We shall inform about this without delay and immediately refund any consideration already paid.
- (6) We have copyright to all images, films and texts that are published in our online shop. A use of the images, films and texts is not permitted without our express consent.

#### **§ 4 Delivery term, delay in delivery, delivery and passing of risk**

- (1) The delivery term is individually agreed or stated by us at the time of accepting the order.
- (2) If we cannot keep a binding term of delivery for reasons for which we are not responsible (unavailability of service), we shall inform the buyer about this without delay and at the same time communicate the probable new delivery term. If the service is not available even within the new delivery term, we are entitled to fully or partly terminate the contract; we shall immediately refund an already paid consideration of the buyer. A case of non-availability of service in this sense is especially the failure of timely delivery to us by our supplier, if neither we nor our suppliers are responsible or we are not obliged for procurement in individual case.
- (3) If we do not keep the bindingly agreed delivery terms and if we are responsible for them, we are liability to pay reimbursement of damage proven by the buyer, unless the delay is attributed to act of God.
- (4) The rights of the buyer as per § 8 of this GTC and our legal rights, especially in case of an exclusion of service obligation (e.g. due to impossibility or unreasonableness of the service and/or subsequent service), remain unchanged.
- (5) Goods delivered by us are principally excluded from return. This does not apply if the goods are defective. If a return is made as an exception, it is possible only in original state or original packing within 4 weeks after invoicing. The normal price on the day of return will be credited. The corresponding fees are incurred. If the delivery price is lesser than the

returning day's price, the delivery price will be credited. The delivered tires can be up to 3 years old. We shall not acknowledge DOT complaints within this period.

- (6) The delivery is ex stock, which is also the place of performance for the delivery and any possible subsequent service. The goods are sent to another destination at the demand and cost of the buyer (sales shipment). Unless otherwise agreed, we are entitled to determine the nature of shipment (especially transportation company, dispatch route, packaging) on our own.
- (7) The risk of accidental loss and accidental deterioration of the goods passes on to the buyer at the latest with the handover. However, in case of sales shipment, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay already passes to the carrier, the freight forwarder or the person or institution appointed for the execution of the shipment. If an acceptance is agreed, it is crucial for the passing of risk.

## **§ 5 Price and terms of payment**

- (1) Unless otherwise agreed in individual case, our current prices at the time of the respective time of conclusion of contract apply, in fact, ex stock, plus statutory sales tax. In case of sales shipment (§ 4 Section 7), the buyer bears the transport costs ex stock and the costs of a transport insurance if desired by him.
- (2) All price quotations in our online shop are net cost process (exclusive of statutory sales tax) and are quoted before any applicable shipment costs arising. The dispatch costs are stated in our price quotations in our online shop. The price including sales tax and any arising shipment costs is also shown in the order screen, before you submit the order.
- (3) Our receivables are due without deduction, immediately upon receipt of our invoice with the customer.
- (4) Following payment options are available for you:

### **Direct debit**

The buyer can issue us a SEPA basic mandate / SEPA company mandate. The collection of the direct debit takes place 10 days after invoicing date. The term for the advance notice (pre-notification) is reduced to 5 days. The buyer ensures funds in the account to cover the amount. Costs arising due to non-payment or chargeback of the direct debit shall be borne by the customer, provided, the non-payment or chargeback has not been caused by us.

If automatic direct debit has been agreed, our customer hereby waives, with regard to us and his banks, his right vis-à-vis his banks to revoke debits for the duration of our business relation and during the validity of our agreement for automatic direct debit. Our customer shall communicate this waiver to his bank and inform us about it upon demand.

### **Credit card**

The buyer can pay with credit card. We accept VISA, Mastercard/Eurocard.

### **PayPal/paydirekt**

The buyer can easily and securely pay via PayPal and paydirekt.

- (5) We, as seller, can request advance payment for individual buyers and contracts without giving reasons for it. We are not obliged to accept cheques or drafts; if we take them, it will be only on account of payment.

In case of delayed payment, we are entitled to demand interest in the amount of 8 per cent points over the applicable basic interest rate for transactions with entrepreneurs. The assertion of a higher damage due to delay is not excluded. Our customers shall explicitly reserve the right to prove that damage did not occur or is significantly lesser than asserted by us. We can set dunning costs of EURO 7.50 per dunning.

The customer has the right of retention only if it is based on the same contractual relationship. The customer is not entitled to settle against our receivables, unless, counterclaims are legally established and undisputed.

## **§ 6 Retention of title**

- (1) We retain the title to the sold goods till the complete payment of all our present and future receivables from the purchase contract and an on-going business relationship (secured receivables).
- (2) The goods under retention of title may not be pledged to third parties nor assigned as securities before the complete payment of the secured receivables. The buyer must immediately notify us in writing if an application for initiation of insolvency proceedings is made or if third parties (e.g. seizures) shall access the goods belonging to us.
- (3) In case of conduct of the buyer in breach of the contract, especially in case of non-payment of the due cost price, we are entitled to take back and in our possession the goods delivered by us at any time be they installed or not. The buyer gives us explicitly the right to take over our reserved goods at any location; we are also authorised to dismantling. The respective proprietor of the goods is irrevocably authorised by the customer to release the goods to us. The reclaiming of the purchased item constitutes a withdrawal of contract. After the purchased items are taken back, we are authorised to their disposal, the proceeds of this sale should be offset against the liabilities of the buyer – minus appropriate liquidation costs. If the buyer does not pay the due cost price, we may assert these rights only if we have set the buyer a reasonable term of payment before without success or if such a setting of deadline is unnecessary according to statutory regulations.
- (4) The buyer is authorised to dispose of and/or process the goods under retention of title in proper transaction up to the revocation the as per (c) below. In this case the following provisions apply in addition.
  - (a) The retention of title extends to the products arising from processing, mixing or combining of our goods, to their full value, where we are considered as the manufacturer. If for a processing, mixing or combining with goods of third

parties, their ownership remains in force, we shall acquire joint ownership in the ratio of invoice amounts of the processed, mixed or combined goods. In general, the same terms which apply for goods delivered under retention of title apply to the arising products.

- (b) The buyer now already transfers the receivables against third parties arising from the resale of the goods of products in total or in the amount of our potential share in co-ownership according to the aforementioned paragraph, to us as collateral. We accept the assignment. The obligations of the buyer given in Para 2 also apply in regard to the assigned receivables.
- (c) Apart from us, the buyer is also authorised to collect the receivables. We commit to not collect the receivables as long as the buyer honours his payment obligations to us, he does not lack the capacity to pay and we do not assert the retention of title by exercising a right as per Para 3. However, if this is the case, we can demand that the buyer gives us the assigned receivables and informs their debtor, gives all the information necessary for collection, hands over the associated documents and communicates the assignment to the debtors (third parties). Apart from that, we are authorised in this case to revoke the authorisation of the buyer to further reselling and processing of the goods under retention of title.
- (d) If the realisable value of the collaterals exceeds our receivables by more than 10%, we shall release the collaterals by our choice upon the buyer's request.

## **§ 7 Buyer's claims for defects**

- (1) The statutory regulations apply for the buyer's rights in material defects and defects of title (including incorrect and short delivery as well as improper installation and inadequate installation instructions). In all cases, the special statutory regulations upon final delivery of the goods to a consumer remain unchanged (supplier regress as per §§ 478, 479 of BGB).
- (2) The basis of our warranty for defects is primarily the agreement made about the quality of the goods. If the quality was not agreed, it should be determined by the statutory regulations whether there is a defect or not (§ 434 Para. 1 sentences 2 and 3 of BGB). We however do not bear any liability for public statements of the manufacturer or other third parties (e.g. promotional messages).
- (3) The buyer's claims for defects shall mean that he has honoured his statutory obligations to inspect and complain (§§ 377, 381 of German Commercial Code (HGB)). If a defect appears at the time of delivery, inspection or at a later time point, we should be notified about it in writing without delay. In any case, obvious defects should be notified in writing within 8 working days from the delivery (receipt at the buyer's) and the defects not apparent in the inspection should be notified within the same term from the discovery. If the buyer neglects the proper inspection and/or notification of defects, our liability for the defects not notified, not notified on time or not properly notified is excluded under the statutory regulations.
- (4) If the delivered item is defective, we can initially choose whether we shall provide subsequent service by eliminating the defect (repair) or by delivering an item free of defect (replacement). Our right to deny subsequent service under the statutory prerequisites remains unchanged.
- (5) The buyer must give us the necessary time and opportunity for the subsequent service due, and should especially handover the rejected goods for the purpose of examination. In case of replacement, the buyer must return the defective item to use according to the statutory regulations. The subsequent service includes neither the upgrade of the defective item nor the reinstallation, if we were originally not obliged to install.
- (6) We shall bear the expenses necessary for the examination and subsequent service, especially the transport, infrastructure, labour and material costs (not: upgrade and installation costs) if there is actually a defect. Otherwise we can demand the costs arising from the unjustified demand for remedial of defects (especially examination and transport costs), reimbursed from the buyer, unless the lack of defect was not apparent to the buyer.
- (7) If the subsequent service has failed or a term for subsequent service to be set by the buyer has expired to no avail or is unnecessary under the statutory regulations, the buyer can withdraw from the purchase contract or reduce the purchase price. However, there is no right of withdrawal in case of a negligible defect.
- (8) Claims of the buyer to damages or reimbursement of wasted expenses are valid even for defects, only according to § 8 and are otherwise excluded. Claims on liability for material defects are especially excluded, if defects, impairments of damages can be originally traced back to the fact that
  - a) the goods delivered by us were repaired or processed in other way by others,
  - b) the plant number, the production label or other label permanently affixed on the goods are no longer present or changed, in particular, have been disguised,
  - c) the prescribed air pressure was evidently not maintained for tyres,
  - d) tyres were subjected to an improper stress, especially by exceeding the load permitted for the tyre size and tyre type and the allocated driving speed,
  - e) tyres became damaged upon installation through incorrect wheel setting or became impaired in their performance due to other disturbances in the wheel arch (e.g. dynamic imbalance).
  - f) tyres were installed on a wheel rim that is not allocated to them, not true to gauge, rusty or otherwise defective,
  - g) tyres that have become damaged due to external impact or mechanical damage or have been exposed to heat build-up,

- h) in case of wheel change, the wheel nuts or screws were not retightened after a 50 km distance, provided we have instructed our customer of this necessity at the time of delivery.
- i) tyres were stored in the open before installation by the customer or third parties commissioned by him,
- j) there is natural wear or damage to the goods that can be traced back to improper handling or accident,
- k) tyres of tube-type variants were installed with used tubes/flaps, or in case of tubeless variants, were installed without valve replacement (car tyres) or without new sealing ring (truck/ shoulder tyres) by the customer or third parties.

### **§ 8 Other liability**

- (1) Insofar as nothing to the contrary emerges from these GTC, including the following provisions, we bear liability for a breach of contractual and non-contractual obligations under the statutory regulations.
- (2) We are liable to pay damages – irrespective of legal grounds – within the framework of fault-based liability based on intent and gross negligence. In case of simple negligence, we shall be held liable subject to a mild liability criterion under statutory regulations (e.g. for diligence in its own business affairs) only
  - a) for damage from the fatal injury, bodily injury or injury to health,
  - b) for damage from not insubstantial breach of an essential contractual obligation (obligation, the fulfilment of which mainly enables the proper execution of the contract and may be trusted); in this case however, our liability is limited to the reimbursement of the foreseeable, typically occurring damage.
- (3) The limitations of liability resulting from Para 2 are valid even in case of breaches of duty by or in favour of persons for whose blame we are responsible under the statutory regulations. They do not apply if we have fraudulently concealed a defect or have undertaken a guarantee for the quality of the goods and for the buyer's claims under the product liability law.
- (4) For a breach of duty that is not attributed to a defect, the buyer can withdraw or serve notice if we are responsible for the breach of duty. The buyer's free right of termination (especially as per §§ 651, 649 of BGB) is excluded. Apart from that, the statutory prerequisites and legal consequences are valid.

### **§ 9 Statute of limitation**

- (1) Contrary to § 438 Para. 1 no. 3 of BGB the general statute of limitation for claims from rights in material defects and defects of title is one year from the handover. If an acceptance is agreed, the statute of limitation begins with the acceptance.
- (2) The present statutes of limitation of purchase right also apply for the buyer's contractual and non-contractual claims for damages based on a defect in the goods, unless the application of the regular statutory limitation (§§ 195, 199 of BGB) would lead to a shorter statute of limitation in an individual case. The buyer's claims for damages as per § 8 Para 2 sentence 1 and sentence 2(a) as well as according to the product liability law however lapse exclusively after the statutory limitation periods.

### **§ 10 Applicable law and place of jurisdiction**

- (1) These GTC and the contractual relationship between us and the buyer are subject to the law of the Federal Republic of Germany with the exclusion of the UN Convention on Contracts for the International Sales of Goods (CISG).
- (2) If the buyer is a merchant, the exclusive – even international place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Amtsgericht / Landgericht Hechingen. We are however authorised to file a suit against the buyer in his local court. The overriding statutory regulations, particularly those on exclusive authority, remain unchanged.
- (3) If individual provisions of these general terms and conditions should be or become invalid, it does not affect the legal validity of the rest of the provisions.

### **§ 11 Data protection**

You can find detailed information on data protection in our data protection statement under ....

### **§ 12 Information about the identity of the seller**

Reifen Göggel, Burladinger Straße 14-26, DE-72501 Gammertingen  
Phone: +49 (0)7574 / 9 31 30  
Fax: +49 (0)7574 / 9 34 40  
Email: info@reifen-goeggel.de  
Homepage: www.goeggel.com

Business form: registered merchant (Bruno Göggel)

Registry court: Ulm  
Commercial register number: HRA 710709  
Sales tax identity number: DE 146828808

## **B) Special Provisions for Installation of Wheel/Tyres**

We do not take any liability for disposing of the nuts, provided it does not relate to a defect. It is the customer's responsibility to retighten the nuts and to repeat the retightening after a few kilometres of driving. In spite of all precautionary measures and tightening, there is a possibility that a nut still comes off due to various circumstances. If the vehicle manufacturer prescribes certain torque values, then a torque wrench should be used to retighten the wheels. If the seized wheel nuts that can be loosed only with great force, the wheel studs and brake drums are damaged, claims for damages cannot be asserted provided it is not related to a defect. Further, it must be noted that we do not bear any liability if old tubes, tapes and tubeless valves are reused, provided our service is not faulty.

As of: January 2021