

GENERAL TERMS AND CONDITIONS

The following terms and conditions apply to the sale of used motor vehicles (hereinafter referred to as "object of purchase") by the Seller in his own name.

I. Conclusion of contract/Assignment of rights and duties of the Purchaser

1. The Purchaser is bound to the order for a maximum of ten days, and in the case of commercial vehicles for two weeks. The purchase contract is concluded once the Seller confirms his acceptance of the order for the precisely described object of purchase in writing within the periods named in each case or if he effects delivery. However, the Seller is obliged to immediately notify the customer if he will not accept the order.
2. Any assignment of the rights and duties of the Purchaser under the purchase contract requires the written approval of the Seller.

II. Prices

1. The price of the object of purchase applies ex location of the object of sale.
2. Agreed ancillary services and costs advanced for the Purchaser as per agreement are for the account of the Purchaser, unless otherwise specified.

III. Payment/Set-off

1. The purchase price, prices for ancillary services and costs advanced are immediately payable upon handing over the object of purchase and upon handing over or sending the invoice.
2. The Purchaser may only set off counterclaims against claims of the Seller if his counterclaim is uncontested or has been declared legally valid by a court of law; a right of retention can only be asserted if it is based on claims arising under the purchase contract.

IV. Delivery and delay in delivery

1. Delivery dates or delivery periods, which can be agreed as binding or non-binding, must be stated in writing. Delivery periods commence on conclusion of contract.
2. The Purchaser can demand that the Seller effects delivery ten days, in the case of commercial vehicles two weeks, after a non-binding delivery date or a non-binding delivery period has been exceeded. The Seller is deemed to be in delay once he has received the demand. If the Purchaser is entitled to compensation for damage caused by delay, his claim shall be restricted to 5% of the agreed purchase price at the maximum in the event of slight negligence on the part of the Seller. If the Purchaser also wishes to withdraw from the contract and/or claim damages instead of performance, he must set the Seller a reasonable period for delivery after the end of the ten-day period described in sentence 1. If the Purchaser is entitled to damages instead of performance, his claim shall be restricted to 10% of the agreed purchase price at the maximum in case of slight negligence. If the Purchaser is a legal entity under public law, a special fund under public law or an entrepreneur who is practising his trade or acting in a self-employed professional capacity upon conclusion of contract, claims for damages based on simple negligence are excluded. If delivery becomes impossible for the Seller by coincidence whilst he is in delay, he shall be liable based on the limitations of liability agreed above. The Seller shall not be liable if the damage would also have occurred if delivery had been on time.
3. Should a binding delivery date or a binding delivery period be exceeded, the Seller shall be in delay upon exceeding the delivery date or the delivery period. The rights of the Purchaser are then determined by nos. 2 to 3 of this section.

4. Force majeure or operational disruptions occurring at the Seller's firm or his supplier's which temporarily prevent the Seller from delivering the object of purchase on the agreed date or within the agreed period without the Seller being at fault for this, change the dates and periods named in nos. 1 to 3 of this section by the duration of the delay in performance caused by these circumstances. If such disruptions result in a postponement of performance by more than four months, the Purchaser may withdraw from the contract. This is without prejudice to other rights of rescission.

V. Acceptance

1. The Purchaser is obliged to accept the object of purchase within 8 days of receipt of the notice that the goods are ready for collection. In the event of non-acceptance the Seller may exercise his statutory rights.
2. If the Seller claims damages, this shall amount to 10% of the agreed purchase price without value-added tax. A higher or lower amount of damages shall be stated if the Seller furnishes proof of greater damage or the Purchaser of less damage or the Purchaser furnishes proof that negligible damage or no damage at all occurred.

VI. Retention of title

1. The object of purchase remains the property of the Seller until the settlement of the claims to which the Seller is entitled based on the purchase contract.
If the Purchaser is a legal entity under public law, a special fund under public law or an entrepreneur who is practising his trade or acting in a self-employed professional capacity upon conclusion of contract, the retention of title continues to be valid for claims of the Seller against the Purchaser arising from their current business relations until the settlement of the claims to which the Seller is entitled in connection with the purchase.

Upon demand by the Purchaser, the Seller is obliged to waive the retention of title if the Purchaser has incontestably settled all the claims in connection with the object of purchase and there is adequate security for the remaining claims arising from the current business relations. In the period in which title is retained, the Seller has the right to possess the registration certificate part II (vehicle registration document).

2. In the event of a delay in payment by the Purchaser the Seller may withdraw from the purchase contract. If the Seller is also entitled to damages instead of performance and takes back the object of purchase, there is consensus between the Seller and the Purchaser that the Seller shall refund to the Purchaser the customary sales value of the object of purchase at the time when the item is taken back. Upon request by the Purchaser, which is only possible immediately after taking back the object of purchase, a publicly appointed and sworn expert, e.g. the Deutsche Automobil Treuhand (DAT), shall determine the customary sales value at the option of the Purchaser.

The Purchaser pays all the costs of taking back and selling the object of purchase. The selling costs shall amount to 5% of the sales proceeds without documentation. A higher or lower amount of costs shall be stated if the Seller furnishes proof of higher costs or the Purchaser furnishes proof that lower costs or no costs at all were incurred.

3. As long as title is retained, the Purchaser may not dispose of the goods or grant third parties use thereof by way of contract.

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VII. Material defects

1. Claims of the Purchaser based on material defects become time-barred one year after delivery of the object of delivery to the customer.

Notwithstanding this, commercial vehicles are sold excluding any warranty whatsoever for material defects if the Purchaser is a legal entity under public law, a special trust under public law or an entrepreneur who is practising his trade or acting in a self-employed professional capacity upon conclusion of contract. This also applies to passenger vehicles if the Purchaser is an entrepreneur and acquires the object of purchase for the purpose of commercial resale or recycling.

This is without prejudice to further claims if the Seller has mandatory liability by law or other agreements are made, particularly in the event that a guarantee is assumed.

2. The following applies to the execution of the rectification of defects:

- a) The Purchaser must assert claims to the rectification of defects vis-à-vis the Seller. If claims are notified verbally, a written confirmation of the receipt of the notification must be handed over to the Purchaser.
- b) If the object of purchase cannot be operated as a result of a material defect, the Purchaser may seek support from the nearest certified garage on duty at the location of the inoperable object of sale with the Seller's approval if the location of the inoperable object of sale is more than 50 km from the Seller.
- c) Replaced parts become the property of the Seller.
- d) For the parts fitted to rectify defects, the Purchaser may assert claims based on material defects arising under the purchase contract until the end of the limitation period.

VIII. Liability

1. If the Seller must pay for damage caused as a result of slight negligence based on statutory provisions subject to these conditions, the Seller shall have limited liability as follows:

The Seller shall only be liable in the event of a breach of essential contractual duties and such liability shall be limited to typical damage foreseeable on conclusion of contract. This limitation shall not apply in the event of death, physical injury and an impairment of health. Insofar as the damage is covered by insurance taken out by the Purchaser for the damage concerned (excluding fixed-sum insurance), the Seller shall only be liable for any disadvantages this entails for the Purchaser, e.g. higher insurance premiums or disadvantages in terms of interest until the claim is settled by the insurance. The same applies to damage caused by a defect.

2. Notwithstanding fault on the part of the Seller, any liability of the Seller shall remain unaffected in the event of the fraudulent concealment of a defect, the assumption of a guarantee or a procurement risk and based on the Product Liability Act.
3. Liability due to a delay in delivery is definitively defined in section IV.
4. The personal liability of the statutory representatives, vicarious agents and employees of the Seller is excluded for any damage caused by them as a result of their slight negligence.

IX. Board of arbitration (arbitration proceedings)

(only applies to used passenger vehicles and off-road vehicles)

1. If the garage bears the sign "Meisterbetrieb der Kfz-Innung" (garage certified by the automotive guild), the parties may apply to the board of arbitration for the automotive trade or the used car trade responsible for the official business location of the Seller if any disputes arise under the purchase contract – except where this concerns the purchase price. The application must be submitted in writing and without delay after gaining knowledge of the contentious issue, but within 13 months after the delivery of the object of purchase at the latest.
2. The decision of the board of arbitration does not exclude the possibility of taking legal action.
3. By applying to the board of arbitration the period of limitation is suspended for the duration of the proceedings.
4. The proceedings before the board of arbitration are held in accordance with its rules and code of procedure, which the board of arbitration provides to the parties on request.
5. The submission of the case to the board of arbitration is excluded if legal action has already been taken. If legal action is taken during the proceedings of the board of arbitration, the board ceases its activities.
6. Proceedings by the board of arbitration are free of charge for the customer.

X. Place of performance, place of jurisdiction and applicable law

1. The place of performance for the delivery of the object of purchase is the enterprise of the Seller named in the purchase contract.
2. For all current and future claims based on the business relations with merchants including claims based on bills of exchange and cheques, the exclusive place of jurisdiction is the official business location of the Seller.
3. The same place of jurisdiction applies if the Purchaser does not have a place of general jurisdiction in Germany, moves his place of residence or customary place of abode abroad after conclusion of contract or his place of jurisdiction or customary place of abode is unknown at the time when legal action is brought. In other respects, the Seller's place of residence is deemed to be the place of jurisdiction in the event of claims of the Seller against the Purchaser.
4. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 shall not apply.

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