General sales conditions of Anschau Technik GmbH

§ 1. General

(1) These general terms and conditions of sale (hereinafter GTC) apply between us and our customers (hereinafter “buyer”), be they natural or legal persons, for the legal transaction in question.
(2) A consumer within the meaning of these terms and conditions is any natural person who concludes a legal transaction for a purpose that can predominantly neither be attributed to their commercial nor their independent professional activity (§ 13 BGB). An entrepreneur within the meaning of these terms and conditions is any natural or legal person or a legal partnership who, when concluding a legal transaction, is exercising their commercial or independent professional activity. Entrepreneurs and consumers are uniformly referred to as buyers in these terms and conditions.
(3) The General Terms and Conditions apply to contracts for the sale and / or delivery of movable items, in particular vehicles of all types, trailers, accessories and spare parts (hereinafter referred to as “contractual goods” regardless of whether we manufacture them ourselves or buy them from suppliers.
(4) Our terms and conditions apply exclusively. Deviating, conflicting or supplementary terms and conditions or purchasing conditions of the buyer are only part of the contract if and to the extent that we have expressly agreed to their validity. This consent requirement applies in any case, for example even if we carry out the delivery to the buyer without reservation with knowledge of the buyer's terms and conditions.
(5) Individual agreements made with the buyer on a case-by-case basis, such as changes, ancillary agreements and additions, always take precedence over these General Terms and Conditions. A written contract or our written confirmation is decisive for the content of such agreements.
(6) Legally relevant declarations and notifications which the buyer must submit to us after the conclusion of the contract (such as deadlines, notifications of defects, declarations of withdrawal or reduction in price) must be made in writing to be effective.
(7) References to the validity of statutory provisions only have a clarifying meaning. Even without such a clarification, the statutory provisions apply, unless they are directly amended or expressly excluded in these terms and conditions.
(8) The ineffectiveness of one or more clauses of these terms and conditions does not result in the ineffectiveness of all other clauses. Rather, both contracting parties consider the clauses not affected by the ineffectiveness to be fully effective. In place of the ineffective clauses, those shall be deemed to have been agreed which, based on an economic point of view, come closest to the ineffective clauses in a legally permissible form.

§ 2 conclusion of contract

(1) Our offers are non-binding, errors reserved and non-binding. This also applies if we have provided the buyer with catalogs, technical documentation (such as drawings, plans, calculations, calculations, references to DIN standards, etc.), other product descriptions or documents - also in electronic form. We reserve property rights and copyrights to these. They may not be made accessible to third parties without our express, written consent.
(2) Information from catalogs, technical documentation (such as drawings, plans, calculations, calculations, references to DIN standards, etc.), other product descriptions or documents that are not attributable to us is the responsibility of the buyer - provided that they are part of his decision to Conclusion of contract is based on - to explain to us. In this case we can comment

on their correctness. If the buyer violates this obligation, such information is non-binding, unless it has been expressly declared to be part of the contract. If the customer is an entrepreneur, this declaration is expressly made in writing.
(3) The order of the contract goods by the buyer is considered a binding contract offer. Unless otherwise stated in the order, we are entitled to accept this contract offer within 14 days of receiving it.
(4) The acceptance takes place in writing (e.g. by order confirmation) or, if there is no written acceptance, by delivery of the contract goods to the buyer.

§ 3 Delivery Period and Delay in Delivery

(1) The delivery period is agreed individually or specified by us when we accept the order. The delivery period applies ex works and ex warehouse.
(2) If the buyer requests changes or additions after the conclusion of the contract, the delivery time is extended appropriately. We will immediately notify the buyer of the expected new delivery time.
(3) The delivery period is subject to unforeseeable incidents occurring with us or our sub-suppliers, such as delays in the completion of essential delivery parts through no fault of our own, late delivery of essential raw materials, force majeure, official measures, operational disruptions, etc., insofar as these incidents result in the completion or delivery of the contract goods influence.
(4) If we are unable to meet binding delivery deadlines for the reasons mentioned in paragraph 3, we will inform the buyer of this immediately and at the same time notify the expected new delivery deadline. The declaration made by our sub-supplier is sufficient evidence that we are prevented from delivering or performing. If the service is also not available within the new delivery period, we are entitled to withdraw from the contract in whole or in part; We will immediately reimburse any consideration already provided by the buyer. Our statutory rights of withdrawal and termination, as well as the statutory provisions on the execution of the contract in the event of an exclusion of the performance obligation (e.g. impossibility or unreasonableness of performance and / or subsequent performance) remain unaffected. The buyer's rights of withdrawal and termination from § 8 also remain unaffected.
(5) The occurrence of our delay in delivery is determined by the statutory provisions. In any case, however, a reminder from the buyer is required.

§ 4 delivery, transfer of risk, acceptance, default in acceptance

(1) Delivery takes place ex works Waldlaubersheim, which is also the place of performance. At the request and expense of the buyer, the contract goods will be sent to a different destination. Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves. Delivery takes place at the expense and risk of the buyer.
(2) The risk of accidental loss and accidental deterioration of the contractual goods is transferred to the buyer at the latest upon handover. In the case of sale by delivery, however, the risk of accidental loss and accidental deterioration of the contractual goods, as well as the risk of delay, is transferred to the buyer with the delivery of the contractual goods to the freight forwarder. If our employees are involved in loading or unloading the contractual goods, they act at the risk of the buyer as his vicarious agent. If the buyer is a

consumer, the risk of accidental loss and accidental deterioration of the contract goods, as well as the risk of delay, is also transferred to the buyer if the buyer instructs the freight forwarder, the carrier or the person or institution otherwise assigned to carry out the shipment with the execution Has. If acceptance has been agreed, this is decisive for the transfer of risk. In addition, the statutory provisions of the law on contracts for work and services apply accordingly to an agreed acceptance. The handover or acceptance is the same if the buyer is in default of acceptance. At the buyer's request, deliveries will be insured in his name and on his account.
(3) If the buyer is in delay of acceptance, if he fails to cooperate or if our delivery is delayed for any other reason for which the buyer is responsible, we are entitled to demand compensation for the resulting damage, including additional expenses (e.g. storage costs). At the request of the buyer, the delivery can be insured, the costs are to be borne by the buyer.

§ 5 prices and terms of payment

(1) Unless otherwise agreed in individual cases, our current prices at the time of the conclusion of the contract apply, ex warehouse plus statutory sales tax.
(2) In the case of sales by delivery (§ 4 Paragraph 1), the buyer bears the transport costs ex warehouse and the costs of any transport insurance requested by the buyer. Any customs duties, fees, taxes and other public charges are borne by the buyer. We do not take back packaging, it becomes the property of the buyer: apart from this, something else is agreed in writing.
(3) The purchase price is due immediately upon invoicing without any deductions. We are entitled to request a down payment on the purchase price. The deposit is due immediately without deduction.
(4) Interest is to be paid on the purchase price during the delay at the applicable statutory default interest rate. We reserve the right to assert further damage caused by default. Our claim to commercial maturity interest (§ 353 HGB) remains unaffected with regard to business people.
(5) The buyer is only entitled to set-off or retention rights insofar as his claim has been legally established or is undisputed. In the event of a defective delivery, Section 8 (6) remains unaffected.
(6) If, after the conclusion of the contract, it becomes apparent that our claim to the purchase price is jeopardized by the buyer's insufficient ability to pay (e.g. by filing for insolvency proceedings), we are subject to the statutory provisions on refusal of performance and - if necessary after setting a deadline - on Entitled to withdraw from the contract (§ 321 BGB). In the case of contracts for the production of non-representable items (custom-made items), we can declare our withdrawal immediately; the legal regulations on the dispensability of setting a deadline remain unaffected. If we withdraw from the contract, we can demand compensation from the buyer instead of performance or reimbursement of expenses.

§ 6 retention of title

(1) We reserve ownership of the contract goods sold until all of our current and future claims from the purchase contract and an ongoing business relationship (secured claims) have been paid in full. During the period of retention of title, we have the right to possess the vehicle documents. Our reserved property does not pass to the buyer or a third party if the vehicle

documents are sent to a credit institute of the buyer with the condition that they are only available in trust against payment, or they have been handed over to the buyer.
(2) As long as ownership has not yet passed to him, the buyer is obliged to treat the contract goods with care. In the case of high-quality sales goods, he is particularly obliged to insure them adequately at replacement value at his own expense against theft, fire and water damage. As a precaution, the buyer assigns his future reimbursement claims against his insurer to us. We accept this assignment. However, we will only make use of the assignment in the event that insolvency proceedings have been initiated against the buyer's assets or the buyer is insolvent or the financial situation deteriorates to such an extent that insolvency is to be feared. If maintenance and inspection work has to be carried out, the buyer must carry this out in good time at his own expense.
(3) The contractual goods subject to retention of title may not be pledged to third parties, nor assigned as security, nor rented or changed, until the secured claims have been paid in full.
(4) The buyer must inform us immediately of the location of the contractual goods as well as any change in the location of the contractual goods and to notify us immediately in writing if and to the extent that third parties access the contractual goods belonging to us. If the third party is unable to reimburse us for the judicial and extrajudicial costs of a lawsuit according to § 771 ZPO, the buyer is liable for the loss we incur.
(5) If the buyer acts contrary to the contract, in particular if the purchase price is not paid, we are entitled to withdraw from the contract in accordance with the statutory provisions and / or to reclaim the contractual goods on the basis of retention of title. The request for surrender does not also include a declaration of withdrawal; rather, we are entitled to only demand the return of the contractual goods and to reserve the right to withdraw from the contract. If the buyer does not pay the due purchase price, we may only assert these rights if we have previously set the buyer an unsuccessful deadline for payment or if such a deadline is dispensable according to the statutory provisions.

§ 7 retention of title by entrepreneurs

(1) If the buyer is an entrepreneur, in addition to the aforementioned provisions of Section 6, the following conditions apply with regard to retention of title.
(2) The entrepreneur must allow us to inspect the contract goods at any time during his business hours.
(3) The buyer is authorized to resell and / or process the contractual goods subject to retention of title in the ordinary course of business. In this case, the following provisions also apply:
(a) The retention of title extends to the full value of the products resulting from the processing, mixing or combination of our contractual goods, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or connection with the contractual goods of third parties, their ownership rights remain, we shall acquire co-ownership in the Ratio of the invoice values of the processed, mixed or combined contract goods. Otherwise, the same applies to the resulting product as to the contractual goods delivered under retention of title.
(b) The claims against third parties arising from the resale of the contractual goods or the product are already now assigned to us by the buyer in total or in the amount of our possible co-ownership share in accordance with the above paragraph as security. We accept the assignment. The obligations mentioned in Section 6 (3) also apply with regard to the assigned claims.

(c) In addition to us, the buyer remains authorized to collect the claim. We undertake not to collect the claim as long as the buyer fulfills his payment obligations to us, does not fall into arrears, has not filed for insolvency proceedings and there is no other shortcoming in his performance. If this is the case, however, we can demand that the buyer notify us of the assigned claims and their debtors, provide all information required for collection, hand over the associated documents and notify the debtors (third parties) of the assignment.
(d) If the realizable value of the securities exceeds our claims by more than 10%, we will release securities of our choice at the request of the buyer.

§ 8 Claims for defects by the buyer, design and shape changes, color deviations

(1) The statutory provisions apply to the buyer's rights in the event of material defect or legal defect (including wrong delivery and underdelivery,), unless otherwise specified below. In all cases, the special statutory provisions for the final delivery of the contractual goods to a consumer (§§ 476, 479 BGB) remain unaffected, provided that the buyer is an entrepreneur.
(2) The basis of our liability for defects is primarily the agreement made on the quality of the contractual goods. All product descriptions that are the subject of the individual contract apply as an agreement on the quality of the contractual goods. We reserve the right to make design or shape changes and deviations in color, provided that the contractual goods are not changed significantly, the changes are reasonable for the buyer and the contractual goods can be used unchanged for the agreed purpose. The information in the descriptions about performance, weight, equipment, speed, etc. are only to be regarded as approximate and do not constitute a quality agreement according to § 434 paragraph 1 sentence 1 BGB.
(3) Insofar as the quality has not been agreed, the statutory regulation must be used to assess whether or not there is a defect (Section 434 (1), sentences 2, 3 BGB). However, we assume no liability for public statements by the manufacturer, contract goods not manufactured by us (e.g. advertising statements).
(4) If the buyer is an entrepreneur, his claims for defects require that he has complied with his statutory inspection and notification obligations (§§ 377, 381 HGB). If a defect becomes apparent during the examination or later, he must be notified of this immediately in writing. If the buyer fails to properly examine and / or report the defect, our liability for the defect that has not been reported is excluded.
(5) If the delivered item is defective, we can first choose whether to provide supplementary performance by eliminating the defect (subsequent improvement) or by delivering a defect-free item (replacement delivery). Our right to refuse the selected type of supplementary performance under the legal requirements remains unaffected.
(6) We are entitled to make the subsequent performance owed dependent on the buyer paying the purchase price due. However, the buyer is entitled to withhold part of the purchase price that is reasonable in relation to the defect.
(7) The buyer has to give us the time and opportunity necessary for the supplementary performance owed, in particular to hand over the contracted goods for inspection purposes. In the case of a replacement delivery, the buyer must return the defective contract goods to us in accordance with the statutory provisions. The buyer has to deliver the goods free of charge to our factory in Waldlaubersheim.

(8) The expenses required for the purpose of testing and subsequent performance, in particular transport, travel, labor and material costs, are borne by the buyer.
(9) In urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, the buyer can remedy the defect himself. To do this, however, he must inform us in advance in writing and wait for our approval. The right to carry out the work does not exist if we were entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
(10) If the supplementary performance has failed several times or a reasonable deadline to be set by the buyer for the supplementary performance has expired without success, or if it is dispensable according to the statutory provisions, the buyer can withdraw from the purchase contract or reduce the purchase price. In a minor defect, however, there is no right of withdrawal.
(11) Claims of the buyer for damages or reimbursement of wasted expenses only exist in accordance with § 9 and are otherwise excluded.

§ 9 Other liability

(1) Unless otherwise stated in these terms and conditions, including the following provisions, we are liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions.
(2) We are liable for damages - for whatever legal reason - in the event of willful intent and gross negligence. We are only liable for simple negligence:
(a) for damages resulting from injury to life, limb or health and
(b) for damage resulting from the breach of an essential contractual obligation, whereby our liability is limited to compensation for the foreseeable, typically occurring damage. An essential contractual obligation is understood to be an obligation, the fulfillment of which enables the proper execution of the contract in the first place and on whose compliance the contractual partner regularly relies and may rely.
(3) The limitations of liability resulting from paragraph 2 do not apply if we have fraudulently concealed a defect or have assumed a guarantee for the quality of the contractual goods and for claims of the buyer under the Product Liability Act.
(4) We do not accept any liability for natural wear and tear or damage that can be traced back to negligent or improper handling of the contractual goods.
(5) If we deliver spare parts, we are not liable for damage caused by incorrect installation of the delivered spare parts.
(6) Due to a breach of duty that does not consist of a defect, the buyer can only withdraw or terminate if we are responsible for the breach of duty. A free right of termination of the buyer (in particular according to §§ 651, 649 BGB) is excluded. In addition, the legal requirements and legal consequences apply.

§ 10 Limitation

(1) Notwithstanding § 438 Paragraph 1 No. 3 BGB, the general limitation period for claims arising from a material or legal defect is one year from delivery (date of invoice) of the contractual goods, provided the buyer is an entrepreneur. If acceptance has been agreed, the statute of limitations begins with acceptance, otherwise with the date of invoicing.

(2) If, on the other hand, the buyer is a consumer, the general limitation period for claims arising from a material or legal defect is two years from delivery of the contractual goods. If an acceptance has been agreed, the statute of limitations begins with the acceptance, otherwise with Invoicing date.
(3) The above limitation periods of the sales law also apply to contractual and non-contractual claims for damages by the buyer that are based on a defect in the contractual goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would result in a shorter limitation period in individual cases to lead. The limitation of the product liability law remain unaffected in any case. Otherwise, the statutory limitation periods apply exclusively to claims for damages by the buyer in accordance with Section 9.

§ 11 Choice of law and place of jurisdiction

(1) For these terms and conditions and all legal relationships between us and the buyer, the law of the Federal Republic of Germany applies to the exclusion of all international and supranational (contractual) legal systems, in particular the UN sales law. On the other hand, the prerequisites and effects of the retention of title according to § 6 are subject to the law at the respective location of the item, insofar as the choice of law made in favor of German law is inadmissible or ineffective.
(2) If the buyer 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, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is D-55444 Waldlaubersheim. If the buyer does not have a general place of jurisdiction in Germany, the same applies. The same applies if the buyer does not have a general domicile in Germany, has moved his domicile or habitual abode outside of Germany after conclusion of the contract, or his domicile or habitual abode is not known at the time the action is brought. However, we are also entitled to take legal action at the buyer's general place of jurisdiction.
§ 12 data protection We are entitled to save and process all data that are required by the buyer in the context of the fulfillment of the contractual relationship with the buyer, including personal data. You can find the data protection declaration on our website www.anschau.de

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