

General Terms and Conditions of Sale ACPS Automotive (Aftermarket)

General Terms and Conditions of Sale

These General Terms and Conditions of Sale apply exclusively to national and international business transactions with companies, legal entities under public law and corporations under public law.

1. Scope

- 1.1 These General Terms and Conditions of Sale (hereinafter also referred to as 'Conditions of Sale') shall apply to any deliveries made by ACPS Automotive to the Buyer, even though these Conditions of Sale might not be mentioned explicitly in subsequent contracts.
- 1.2 Contradictory or supplementary terms of the Buyer or terms of the Buyer which deviate from these Conditions of Sale shall not become part of any contract unless ACPS Automotive has expressly agreed to their validity in writing. These Conditions of Sale also apply if ACPS Automotive unconditionally executes a delivery to the Buyer in the awareness of the Buyer's terms and conditions which contradict or deviate from ACPS Automotive's Conditions of Sale.
- 1.3 Agreements supplementary to or deviating from these Conditions of Sale entered into between ACPS Automotive and the Buyer for the purpose of executing a contract must be set out in writing in the contract. This also applies to the cancellation of the written form requirement.
- 1.4 ACPS Automotive's statutory rights beyond the scope of these Conditions of Sale remain unaffected.

2. Conclusion of Contract

- 2.1 ACPS Automotive's offers and quotes are subject to change without notice and are non-binding unless they are expressly designated as a binding offer.
- 2.2 Images, drawings, weight and measurement specifications as well as other descriptions of the delivery or service from the documents belonging to the offer are only approximate unless they are expressly designated as binding by written or electronic commitment. They do not represent any agreement or guarantee of corresponding quality of the delivery or service. In the event that the stipulated quality of the delivery or service has been bindingly agreed with the Buyer, ACPS Automotive shall still be permitted to make changes insofar as these are reasonable for the Buyer or are made due to mandatory statutory regulations. The right to modify the goods with regard to design and form is reserved if the modifications are not substantial and are reasonable for the Buyer. In the event that they are unreasonable for the Buyer, the Buyer shall be entitled to rescind the contract. Any more extensive claims shall be excluded.
- 2.3 Unless otherwise expressly agreed in writing, the goods are not fit for any particular purpose or use and do not possess any particular qualities the Buyer is entitled to expect, taking into consideration (i) the type of goods and (ii) the public statements made by or on behalf of ACPS Automotive or by another person in a previous link of the contractual chain, particularly as part of an advertisement or on a label and ACPS Automotive will accordingly not be liable for any lack of conformity of the goods. In addition, the goods need not be of the same quality as a sample or specimen that ACPS Automotive has provided to the Buyer before conclusion of contract.
- 2.4 An order only becomes binding once it has been confirmed by ACPS Automotive in writing. Order confirmations created in automated processes without a signature and name are nonetheless deemed to be written order confirmations. The failure of ACPS Automotive to respond to offers, orders, requests or other declarations by the Buyer may only be construed as consent if this has been explicitly agreed in writing. Furthermore, order confirmations containing obvious mistakes, misspellings or miscalculations are not binding for ACPS Automotive.
- 2.5 If the conclusion of contract takes place via internet platforms, it shall be subject to the terms of use of the platform in question; in all other respects, the provisions of these Conditions of Sale shall apply.
- 2.6 ACPS Automotive retains all rights of ownership and copyrights to offers, drawings, images and other documents. These documents must not be disclosed to third parties without the prior written consent of ACPS Automotive.
- 2.7 ACPS Automotive's products comply with the standards and regulations applicable in the EU. The Buyer shall be responsible for any required testing and/or acceptance of products under foreign technical standards and regulations unless ACPS Automotive expressly offers the products for these other countries.

3. Delivery, Delivery Dates, Late Delivery

- 3.1 Unless expressly agreed otherwise, deliveries shall be made EXW according to Incoterms® 2020 and with the customary packaging used by ACPS Automotive. At the Buyer's request and expense, the goods shall be shipped to another destination (hereinafter 'sales shipment'). The Buyer shall select the mode of shipment. The Buyer shall bear any additional costs associated with the mode of shipment. These costs shall be communicated to the Buyer before conclusion of contract. If the mode of shipment selected by the Buyer is not available, ACPS Automotive shall be entitled to determine the mode of shipment. At the Buyer's request and expense, ACPS Automotive shall take out transport insurance covering risks specified by the Buyer.
- 3.2 The scope of the delivery shall be determined by ACPS Automotive's written order confirmation. Any modifications of the scope of delivery or of the goods to be supplied requested by the Buyer shall require written confirmation by ACPS Automotive to be legally valid.
- 3.3 ACPS Automotive shall be entitled to make partial deliveries if this is reasonable for the Buyer.
- 3.4 Delivery periods must be agreed in text form. Delivery periods shall be non-binding unless they are expressly designated as binding.
- 3.5 A delivery period begins with the dispatch of the order confirmation by ACPS Automotive, but not before the complete provision of any documents, approvals and releases to be procured by the Buyer, the receipt of an agreed down payment and the Buyer's timely, complete and proper fulfilment of any other acts of cooperation.
- 3.6 Agreed delivery periods shall be deemed to have been complied with if ACPS Automotive makes the goods available at the agreed place of delivery before the delivery periods have elapsed or – in the case of a sales shipment pursuant to Section 3.1 Sentence 2 – hands them over to the person designated to carry out the transport or if the Buyer announces its refusal to accept the goods. Delivery shall be made subject to the reservation that ACPS Automotive receives timely and proper deliveries from its own suppliers.
- 3.7 If non-compliance with the delivery periods is due to force majeure and other disruptions for which ACPS Automotive is not responsible, e.g. war, terrorist attacks, pandemics and epidemics, import and export restrictions, including those affecting ACPS Automotive's suppliers, the agreed delivery periods shall be extended by the duration of the hindrance. The same shall apply in the event of industrial action affecting ACPS Automotive and its suppliers.
- 3.8 In the event of a delayed delivery, the Buyer is only entitled to withdraw from the contract if ACPS Automotive is responsible for the delay.
- 3.9 If the Buyer has concluded a framework agreement with ACPS Automotive with a fixed term regarding future deliveries and the Buyer does not retrieve the goods in time, ACPS Automotive is entitled, after the expiration of a reasonable grace period, (i) to deliver and invoice the goods or (ii) to withdraw from the contract or, if the Buyer has acted culpably, (iii) to claim damages in lieu of performance.
- 3.10 If the shipment or delivery is delayed upon the request of the Buyer, ACPS Automotive can, beginning one month after notice of completion or readiness for dispatch, bill the Buyer for storage charges in the amount of 0.5% of the net invoice total for each commenced month. The storage charges shall be limited to 5% of the net invoice total unless ACPS AUTOMOTIVE furnishes proof of higher costs.

4. Cooperation by the Buyer

- 4.1 Without prejudice to the provision in Section 7.1, the Buyer shall inspect the delivered goods for visible external damage, notify the carrier or forwarding agent of such damage and request it to provide written confirmation of the damage. If the Buyer fails to comply with this obligation, it undertakes to compensate ACPS Automotive for any resulting damages.
- 4.2 If the goods have been handed over to the Buyer on EUR-pallets or lattice boxes or other load carriers (e.g. post pallets), the Buyer shall return the same number, type and quality of load carriers to ACPS Automotive at the place of the original handover or, if returning them at the place of the original handover is not possible, shall ship them back to ACPS Automotive in good time and at the Buyer's own expense.
- 4.3 Delivery slips are system-generated and automatically sent to the e-mail address specified by the Buyer. Up to three different e-mail addresses can be specified for the shipment.

- 4.4 The Buyer shall be responsible for and bear the costs for customs clearance, irrespective of any other assignment of responsibility for customs clearance by the agreed Incoterm.
- 4.5 If ACPS Automotive performs a product recall, the Buyer is obligated to cooperate appropriately in carrying out the product recall in order to allow for its efficient implementation. In the event of a product recall, the Buyer is in particular obligated to inform ACPS Automotive of the whereabouts of the deliverables in the further supply chain up to the end customer. In order to do this, the Buyer must regularly and suitably document the whereabouts of the goods and must submit this documentation to ACPS Automotive upon request. Upon request by ACPS Automotive, the Buyer is obligated to recall the goods or products supplied by ACPS Automotive which the Buyer manufactured and put on the market using goods supplied by ACPS Automotive.
If the Buyer intends to perform a recall, this must be agreed with ACPS Automotive in advance.
- 4.6 If and to the extent that the Buyer is responsible for the recall, it shall bear the cost of the recall. In any case, the Parties undertake to keep the cost of a recall as low as possible.

5. Transfer of Risks, Delayed Acceptance

- 5.1. The risk of accidental loss or deterioration of the goods shall pass to the Buyer as soon as ACPS Automotive makes the goods available at the place of delivery in accordance with Section 3.1 Sentence 1 or – in the case of a sales shipment pursuant to Section 3.1 Sentence 2 – hands them over to the person designated to carry out the transport. This shall also apply if partial deliveries are made or if ACPS Automotive has assumed the transport costs in individual cases in derogation from Section 3.1 Sentence 2.
- 5.2. If the Buyer is in default of acceptance, ACPS Automotive can demand compensation for the resulting damage as follows: 0.5% of the net price of the delivery for each day of delay, up to a maximum amount of 5% of the net price of the delivery. The risk of accidental loss or deterioration of the goods shall be transferred to the Buyer at the time of its default of acceptance.
- 5.3. Upon default of acceptance, the goods shall be deemed to have been delivered, in particular with regard to the warranty periods and the payment obligation.
- 5.4. Irrespective of its claims for defects, the Buyer shall accept delivered goods even if they show insignificant defects. The Buyer shall also be obligated to accept delivery in the event of quantity variances up to 5% or in the event that the goods ordered and made available are delivered slightly ahead of time.

6. Prices

- 6.1. The agreed price in EUR, which results from the order confirmation, plus the statutory value-added tax valid on the date of invoicing shall apply.
- 6.2. If the Buyer does not receive an order confirmation or if the order confirmation does not contain any price information, the price list valid at the time of delivery shall apply.
- 6.3. If more than four months elapse between order confirmation and delivery and if price increases occur during this period, in particular due to wage increases, increases in raw material costs, general price increases due to inflation or comparable circumstances, ACPS Automotive shall be entitled to charge a correspondingly higher price. This shall also apply in the event of a material change (by at least 10%) in the order confirmation after ACPS Automotive's submission of an offer or, if ACPS Automotive has concluded a framework agreement with a fixed price agreement, in the raw material prices of the respective goods concerned or other essential cost factors such as, in particular, energy, wage, transport or insurance costs. ACPS Automotive shall then be entitled to reasonably increase the prices to the extent that they are affected by the increase in costs. In this context, ACPS Automotive shall take into account the legitimate interests of the Buyer, in particular with regard to any obligations already entered into by the Buyer to subsequently make delivery of the goods at a certain price, e.g. by way of price reductions. ACPS Automotive shall provide evidence of the price-changing factors to the Buyer upon request.
- 6.4. If they are not covered by liability for material defects, spare part deliveries and return deliveries of repaired goods shall take place subject to the charging of a reasonable flat-rate shipping and packaging fee, plus remuneration for the service rendered by ACPS Automotive.
- 6.5. Returns of erroneously ordered goods must be notified in advance in writing to

demg.sales@ACPS Automotive-automotive.com. ACPS Automotive shall exclusively accept returns of articles in their original packaging which are suitable for resale. The Buyer shall bear the costs for the return transportation. ACPS Automotive can refuse to accept returned goods with carriage due.

7. Payment Terms

- 7.1. Unless otherwise agreed in writing, all payments must be made within 14 days after the invoice date – but not before delivery – without any deduction.
- 7.2. A payment shall be deemed to have been made once ACPS Automotive can dispose of the amount.
- 7.3. Should the payment deadline be exceeded, ACPS Automotive is entitled to demand as from that date statutory commercial interest applicable at that time until full payment is received. ACPS Automotive reserves the right to claim further damages.
- 7.4. If the Buyer is in default of payment, ACPS Automotive shall be entitled to demand immediate payment for all receivables arising from the business relationship, even if these are not yet due.
- 7.5. The Buyer is only entitled to offset counterclaims against payments due if the claims have a non-appealable legal status or are undisputed. Furthermore, the Buyer may only exercise a right of retention if the counterclaim arises from the same contractual relationship.
- 7.6. ACPS Automotive shall be entitled to render supply of goods or services which are still outstanding only upon advance payment or provision of security if circumstances become known after contract conclusion which may substantially impair the Buyer's creditworthiness and may jeopardise the Buyer's payment of outstanding receivables to ACPS Automotive under the respective contractual relationship. This shall apply accordingly if the Buyer refuses or fails to pay outstanding receivables to ACPS Automotive and if there are no undisputed objections or objections established by a final court decision against the receivables of ACPS Automotive.

8. Warranty

- 8.1 Liability for material and legal defects is based exclusively on the quality of the goods as finally agreed in the contract.
- 8.2 The Buyer's rights in the case of defective goods are subject to the obligation of the Buyer to: (i) inspect the supplied goods upon delivery; and (ii) notify in writing obvious defects and defects revealed by such an inspection to ACPS Automotive without delay. Shortfalls in product quantity or transport damage due to parcel or overnight shipping must be objected to in writing without delay after receipt of the goods. Objections to deliveries by forwarding agents must be notified within five working days of receipt.
The Buyer shall notify ACPS Automotive of hidden defects and describe them in writing without delay after their discovery. 'Without delay' in Sentence 1 shall be construed as within 8 working days, and the date of ACPS Automotive's receipt of the notification shall be authoritative for compliance with the deadline. If the Buyer fails to inspect the goods and/or notify ACPS Automotive of any defects, ACPS Automotive shall be exempted from liability for the defect.
- 8.3 If a Buyer notification is unjustified, ACPS Automotive is entitled to demand compensation from the Buyer for any expenses incurred for reviewing the defect unless the Buyer furnishes proof that no fault can be attributed to the Buyer for the unjustified defect notification.
- 8.4 Claims for subsequent performance are excluded in the case of minor deviations which are reasonable for the Buyer.
- 8.5 In the event of defective goods, ACPS Automotive shall be entitled, at its own discretion, to subsequent performance through remedy of the defect or delivery of goods free of defects.
- 8.6 If the goods are not at the place of delivery, the Buyer shall bear all additional costs incurred by ACPS Automotive in remedying defects, unless the transfer to another place corresponds to contractual purposes.
- 8.7 The installation of products delivered by ACPS Automotive can only be carried out by trained personnel in authorised workshops in accordance with the ACPS Automotive installation and/or maintenance instructions as well as in accordance with the guidelines of the respective vehicle manufacturers.
- 8.8 Rights of the Buyer with regard to defects are excluded in case of
- normal wear and tear;
 - defects caused by improper handling or installation after the passing of the risk

(e.g. in deviation from the instructions for use), improper storage or maintenance, or excessive wear or use;

- defects caused by acts of force majeure, particularly external influences, which are not established in the contract, or caused as a result of use of the goods for purposes not established in the contract or which do not reflect customary use.
- 8.9 ACPS Automotive shall not be liable for defects which are based on the fact that the Buyer demands processing or material choice which deviates from ACPS Automotive's specifications.
- 8.10 In the event of resale, the Buyer is obligated to sell the products only with original accessories or accessories that are of at least the same quality as original accessories, as demonstrated by a written certificate from the accessories manufacturer which must be obtained in advance. Upon request by ACPS Automotive, the Buyer must submit this certificate.

9. Liability

- 9.1 ACPS Automotive shall have unlimited liability for damages – on whatever legal basis – resulting from breach of warranty or injury to life, limb or health. The same applies to damage caused by wilful conduct or gross negligence by company bodies or executives
Liability for simple vicarious agents is excluded to the extent permitted by law.
- 9.2 Subject to Section 9.1, ACPS Automotive shall only be liable for slight negligence if material contractual obligations are breached. Material contractual obligations are obligations which enable the proper performance of the contract in the first place and on the performance of which the contract partner usually relies and is expected to rely. In the event of negligent breach of material contractual obligations, ACPS Automotive's liability shall be limited to the amount of damage which is typical for the contract.
- 9.3 Regarding non-compliance with a delivery period, ACPS Automotive's liability for damages incurred by the Buyer as a result of the delay shall be limited to a maximum of 5% of the agreed net price for non-compliance, subject to Section 9.1. The Parties reserve the right to assert further claims for damages as well as to provide evidence that a smaller loss was incurred

10. Limitation

- 10.1 The limitation period for defect claims asserted by the Buyer shall be 12 months commencing on the date on which the defective goods are delivered. The limitation period shall also commence upon default of acceptance by the Buyer. It shall also apply to claims arising from an unlawful act based on a defect in the goods. The limitation period shall not recommence after subsequent performance. In the cases according to Section 9.1, the statutory limitation period shall apply instead.

11. Retention of Title

- 11.1 The delivered goods shall remain the property of ACPS Automotive until they have been paid for in full. In addition, ACPS Automotive shall remain the owner of the delivered goods until all receivables arising from the business relationship between the Buyer and ACPS Automotive have been paid in full.
- 11.2 The Buyer is obligated to handle the goods sold subject to retention of title (hereinafter also referred to as 'goods subject to retention of title') with due care for the duration of the retention of title. In particular, the Buyer shall be obligated to adequately insure the goods at replacement value at its own expense against damage caused by fire, water and theft. The Buyer hereby assigns to ACPS Automotive all indemnification claims under this insurance policy. ACPS Automotive herewith accepts the assignment. If assignment is not admissible, the Buyer shall irrevocably instruct their insurance company to make any payments to ACPS Automotive only. ACPS Automotive's right to assert further claims remains unaffected. Upon request, the Buyer shall provide evidence to ACPS Automotive that the insurance policy has been taken out.
- 11.3 If the goods subject to retention of title are combined with other items not belonging to ACPS Automotive to form a single item, ACPS Automotive shall acquire co-ownership of the single item in the ratio of the gross value of the goods subject to retention of title to the other items at the time of the combination. If the goods subject to retention of title are combined in such a manner that the Buyer's goods must be considered to be the main goods, the Buyer shall hereby assign proportional co-ownership of these goods to ACPS Auto-

motive. ACPS Automotive accepts this assignment. The provisions of this Section 11.3 shall apply accordingly if the goods subject to retention of title are mixed, mingled or processed with other items.

- 11.4 The Buyer shall be revocably entitled to sell the goods subject to retention of title in the ordinary course of business.
The Buyer is not entitled to pledge the goods subject to retention of title, to assign them as security or to make other dispositions endangering the property of ACPS Automotive. In the event of seizures or other interventions by third parties, the Buyer must inform ACPS Automotive without delay in writing and provide all necessary information, inform the third party of ACPS Automotive's ownership rights and cooperate in ACPS Automotive's measures to protect the goods subject to retention of title.
- 11.5 The Buyer shall hereby assign to ACPS Automotive all receivables from the sale of the goods subject to retention of title in the amount of the gross invoice total, as well as all ancillary rights. ACPS Automotive hereby accepts this assignment. If the goods subject to retention of title are sold together with other goods not supplied by ACPS Automotive, receivables from the sale of the goods shall be assigned to ACPS Automotive in the ratio of the gross value of the goods subject to retention of title. If assignment is not admissible, the Buyer shall irrevocably instruct the third party debtor to make any payments to ACPS Automotive only.
- 11.6 ACPS Automotive revocably authorises the Buyer to collect receivables assigned to ACPS Automotive in escrow in its own name. The right of ACPS Automotive to collect these receivables itself shall not be affected thereby. However, ACPS Automotive shall not assert claims for receivables themselves or revoke the authorisation for as long as the Buyer meets its payment obligations. Should the Buyer breach the contract – in particular by defaulting on payment obligations – it must provide the supplier with information about the assigned receivables and respective debtors, notify the respective debtors of the assignment of the receivables and submit to ACPS Automotive all documents and information necessary for ACPS Automotive to assert claims for receivables.
- 11.7 ACPS Automotive may revoke the Buyer's right to resell the goods as well as the collection authorisation if the Buyer does not duly fulfil its payment obligations towards ACPS Automotive, is in default of payment, ceases payments or if insolvency proceedings are applied for against the assets of the Buyer.
- 11.8 At the request of the Buyer, ACPS Automotive is obligated to release existing securities to the extent that the recoverable value of the securities exceeds ACPS Automotive's receivables arising from the business relationship with the Buyer by more than 10%, taking into account customary bank valuation discounts. The selection of the securities to be released shall be at ACPS Automotive's discretion
- 11.9 In the case of deliveries of goods to other legal systems in which the retention of title provision under the present Section 11 is not legally effective, the Buyer hereby grants ACPS Automotive a corresponding security interest. Insofar as further measures are necessary for this, the Buyer shall undertake everything necessary to grant ACPS Automotive such a security interest without delay. The Buyer shall cooperate in all measures which are necessary and conducive to the effectiveness and enforceability of such security interests.

12. Force Majeure

- 12.1 If any Party is prevented from performing its contractual obligations by acts of force majeure, ACPS Automotive shall be exempted from the performance obligation for the duration of the impediment plus a reasonable lead time, without being required to pay compensation for damages to the other Party. The same applies if any Party's performance is unreasonably complicated or temporarily rendered impossible by unforeseeable circumstances which are beyond its control, particularly industrial action, regulatory measures, energy shortages or major operational disruptions.
- 12.2 ACPS Automotive is entitled to withdraw from the contract in whole or in part if such an impediment lasts for more than four (4) months. At the Buyer's request, ACPS Automotive shall provide notification of whether it intends to exercise this right of withdrawal or deliver the goods within a reasonable time period after the end of the four-month period.

13. Withdrawal

- 13.1 If the Buyer acts contrary to the terms of the contract, in particular in case of default on payment, ACPS Automotive shall be entitled, without prejudice to other contractual and statutory rights, to withdraw from the contract after expiry of a reasonable grace period.
- 13.2 The Buyer must grant ACPS Automotive or its representatives access to and return the items subject to retention of title without delay after declaration of withdrawal. After an according timely notification, ACPS Automotive may otherwise dispose of the goods subject to retention of title in order to satisfy the outstanding receivables against the Buyer. The proceeds from the sale shall be set off against the Buyer's liabilities minus reasonable selling costs.
- 13.3 Legal rights and claims shall not be restricted by the provisions of the present Section 13.

14. Confidentiality

- 14.1 The Buyer undertakes to refrain indefinitely from disclosing any information made available by ACPS Automotive which is designated as confidential or which obviously falls into the category of business or trade secret, and not to record, use or transfer such information or make it accessible to third parties in any other way.
- 14.2 Through suitable contractual agreements with the employees and authorised persons working for the Buyer, the latter shall ensure that such persons shall also refrain indefinitely from any exploitation, transmission, or unauthorised recording of such business or trade secrets.

15. Governing Law, Place of Jurisdiction

- 15.1 The contractual relationship between the Buyer and ACPS Automotive is governed by the laws of the country where ACPS Automotive is located with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 15.2 The exclusive place of jurisdiction for all disputes arising from this business relationship shall be the location of ACPS AUTOMOTIVE's registered offices. ACPS Automotive is also entitled to bring legal action at the location of the Buyer's registered offices or any other admissible place of jurisdiction.

16. Miscellaneous Provisions

- 16.1 The Buyer may only assign rights and obligations to third parties with prior written consent of ACPS Automotive.
- 16.2 The place of performance for all services by the Buyer and ACPS Automotive shall be the registered office of ACPS Automotive.