



GENERAL TERMS AND CONDITIONS of MM FORSTTECHNIK GmbH

1. General

Our deliveries - including follow-up orders where there is an ongoing business relationship - shall take place exclusively on the basis of these Terms and Conditions, as amended from time to time. The provisions that follow concerning the delivery of goods also apply correspondingly for performances. For repairs, our Supplementary Terms and Conditions for Repairs also apply. Any mutual agreements must exist in written form to be valid.

2. Formation of a contract

An order is only legally accepted when the customer receives a written order confirmation, or an invoice for the fulfilment of the order or performance, or a bill of delivery, or a delivery from the order.

The offers that we make are without obligation. We reserve the right to sell the goods to another buyer in the meantime.

The dimensions, weights, outputs, prices and similar information stated in price lists, catalogues, brochures and other publications are without obligation.

The content and scope of our obligations is determined solely by our written order confirmation, provided that one has been issued. Where one has not been issued, the content and scope of our obligations is determined by our bills of delivery. We reserve the right to make changes to the composition of our products, as well as any other changes that are not unreasonable for the customer.

3. Prices

All prices are net prices to which any applicable VAT must be added, unless a tax exemption exists for us in accordance with the VAT Act. All prices are ex works at MM Forsttechnik GmbH, Mayr-Melnhof-Straße 9, 8130 Frohnleiten, Austria, also referred to below as the "workshop". Any packaging or delivery costs, and any additional fees resulting from changes in the prices of upstream products or raw materials, or from changes in exchange rate parities, are to be borne by the customer.

Insurance for transportation can only be arranged at the express instruction of the customer and at the customer's own cost.

4. Payment

Unless there is another written agreement in place, all invoices or other demands are to be paid promptly and in full upon receipt of the invoice, or once the customer has been notified that the goods are ready for collection or dispatch. Payment must be rendered in full, either in cash or by means of a bank transfer to our Austrian bank account, without any charges being applied to us. We will only accept cheques or bills of exchange if we have expressly agreed to this. Any bill of exchange charges or collection fees are to be borne by the customer. Irrespective of any purpose assigned to payments, they will be credited against items in the order given here: firstly against VAT, then interest, compound interest, any later invoices for replacement parts / repairs / other issues, any fees, and finally against the outstanding purchase price.

If the customer defaults either wholly or partially on a payment, or if a bill of exchange or a check is not honoured, or if we receive information indicating that it is risky to grant the customer credit, or if an application is made to open insolvency proceedings, or if the customer makes an out-of-court offer to settle with its creditors, then

we have the right: either to demand the immediate payment of all outstanding invoices, even ones that are deferred or not yet due, and to demand prepayment for any outstanding deliveries and performances; or to withdraw from the contract. If we choose to withdraw from the contract, the customer shall be liable for all damages resulting from the termination of the contract, and shall in any case pay us a contractual penalty of 15% of the value of the order, regardless of culpability and regardless of whether any damage or loss actually occurs; this penalty is due within 14 days of it being demanded. We are entitled to claim for any damages exceeding this amount. In the first case, we can also forbid the onward sale or processing of the delivered goods, and demand they are returned to us at the customer's own expense.

In cases of default, the customer shall in addition pay interest on arrears in the amount of 8% above the base rate, in accordance with Section 1333 of the ABGB [Austrian General Civil Code]. The customer shall also compensate us for all reminder and collection expenses incurred in the pursuit of our claims, as well as any pre-trial costs.

We are under no obligation to fulfil the contract if the customer does not meet its obligations as agreed, and in particular, if due invoices are not paid.

The customer is barred from off-setting using other claims of the customer that are recognised as uncontested or legally binding; and the customer's rights of retention, in particular due to guarantee claims, along with other rights of the customer to refuse performance, are excluded.

5. Delivery

Unless expressly agreed otherwise, all delivery deadlines and delivery periods are non-binding.

The delivery period starts to run from the date of the order confirmation; but only if we have received all the documents and information that the customer is required to supply us with.

The delivery deadline shall be regarded as having been met if the goods are dispatched, or if the customer has been notified that they are ready to collect, before the expiry of the delivery period.

We are entitled to carry out partial deliveries and advance deliveries, and to make reasonable changes to how the delivery is fulfilled, even during the delivery period itself.

Force majeure events, such as traffic disruptions, disruptions to energy supply, any disruption to operations of any kind, strikes or lockouts in our own business or in another business connected to the fulfilment, obstacles put in place by order of the authorities, or sanctions put in place by international authorities, release us from any obligation to adhere to the agreed delivery periods, and the customer shall not be able to derive any claims from this.

If the circumstances under which the contract was formed have changed to such an extent that it can be assumed that the contract would not have been formed under these changed circumstances, or that it would have been formed but with different provisions, then we are entitled to refuse fulfilment of the contract, or to demand that the contract is amended (or that individual clauses thereof are amended) to take account of the changed circumstances, for example, payment in a different currency, insertion of an escalator clause, amending the delivery arrangements, etc. The change in circumstances can also be based on a change in the customer's own situation.

If we have agreed a binding delivery period and deadline, and we are responsible for failing to meet that deadline, then the customer

is entitled either to demand fulfilment, or to declare its withdrawal from the contract (setting an appropriate grace period of at least 8 weeks). The declaration of withdrawal from the contract must be sent by registered letter in all cases. In such a case, the customer shall be entitled to reimbursement of any payment made, in its full amount, but without the addition of interest. The customer waives any claims for damages resulting from the delay in delivery, except in cases of gross negligence.

6. Default of acceptance

In the event that the customer is in default of acceptance, the customer shall pay all costs, in particular transport and storage costs, irrespective of the customer's other payment obligations. We are entitled to charge a daily storage fee, one that is usual for the local area (or alternatively, one that is considered reasonable), or to have the goods stored elsewhere at the customer's expense. Payment for this is due immediately upon default of acceptance. If we so choose we are entitled instead of this to claim damages on grounds of non-fulfilment. The customer is not entitled to refuse acceptance on the basis of irrelevant defects.

7. Unjustified withdrawal by the customer

In the event that the customer declares that it is withdrawing from the contract, without it being justified in doing so, we are entitled either to assert the invalidity of the withdrawal, or to withdraw from the contract ourselves, as we see fit. If we choose to withdraw from the contract, the customer shall be liable for any damage or loss that we suffer as a result of the termination of the contract, and shall in any case pay us a contractual penalty of 15% of the value of the order, regardless of culpability and regardless of whether any damage or loss actually occurs; this penalty is due within 14 days of it being demanded. We are entitled to claim for any damages exceeding this amount.

8. Transfer of risk

Risk is transferred to the customer at the point when the delivery item leaves the workshop, even in cases where training or a test run is to be carried out. If dispatch or delivery is delayed at the request of the customer, or for other reasons for which we are not responsible, then the risk is transferred to the customer at the point when the item is ready for dispatch or collection. MM Forsttechnik GmbH shall determine the method and mode of delivery and packaging. Increases in freight rates between order confirmation and delivery are to be borne by the customer.

9. Guarantee - liability

The customer, or its agent, or its carrier must examine the goods immediately upon handover. Observable defects must be noted in detail on the certificate of receipt, the bill of delivery, or the bill of consignment; otherwise, any claims shall be excluded. If an immediate inspection is not possible upon handover, this circumstance should be noted on the certificate of receipt, the bill of delivery, or the bill of consignment; otherwise, any claims shall be excluded. Objections to any defect determined at a later inspection must be submitted in detail and in written form within three days of handover at the latest.

If submitting a notice of defects, it must specify the defect or defects precisely, and it must be submitted immediately in writing. If the customer fails to inform us of any defects, the goods will be considered to have been approved, except in cases of a defect that was not apparent when inspected. If a defect such as this becomes apparent at a later time, we must be informed of it as soon as it is discovered; otherwise, the item shall be considered to have been approved in respect of this defect also. The above provisions also apply if an item is delivered that is not the

item that was required, or if the quantity of items delivered is not the quantity that was required, unless the item or items obviously deviate from the order to such a significant extent that we would have to rule out the possibility of having the customer's approval.

It is the customer's responsibility to ensure that the item remains in the same condition as when it was delivered, and in particular that no modifications are made to it without our authorisation.

Deviations in quality, form, colour, weight, or features, that are usual in the trade, or minor, or unavoidable for technical reasons, shall not be regarded as defects and cannot be the subject of complaints. This also applies to deliveries where a sample was supplied beforehand.

Once an acceptance inspection of the item, should one have been agreed upon, is carried out, then it is not possible to give notice of defects that would have been apparent at this inspection. If the acceptance inspection does not take place after we have announced our readiness for it, or if it does not take place on time and in full, then the item shall be regarded as approved, and the customer shall be in default of acceptance.

For defects in our deliveries or performances, we provide the guarantee that we will, within a reasonable time period, either correct the defect or supply a replacement, as we see fit. Other claims, in particular claims for a reduction in price, are excluded, regardless of the legal basis for the claim, unless a separate written agreement exists. However, this only applies to the right to withdraw from the contract if the customer is not grossly disadvantaged by this.

In particular, there shall be no guarantee obligations if the defect is caused by normal wear and tear, unauthorised modifications made to the item, improper handling, poor maintenance, unusual environmental influences, or damage sustained in transit. Furthermore, any guarantee is excluded if our goods are used in combination with other goods that we have not recommended for use with our goods, unless the customer can show that this was not the cause of the defect.

We do not accept any liability or provide any guarantee for goods or parts that are not brand-new. This applies in particular to devices such as tow vehicles which are not brand-new and/or have been supplied by the customer ("customer devices"). We are under no obligation to carry out material inspections (particularly in the case of customer devices) unless the customer has commissioned us to do so in writing. Unless a commission such as this has been received, customer devices shall only be checked for their basic suitability for the alteration or extension that they are to be subject to. In cases of loss or damage to the customer device, we shall only be liable if the customer can prove that we have acted with gross negligence or wilful intent. This also applies for test runs and transfer journeys. In cases of loss or damage to the customer device, our liability is limited to repairing it or, if this is not possible or would entail disproportionately high costs, to reimbursing the cost of the customer's device on the day that the damage or loss occurred. If the customer or the customer's agent is the one driving on a test run, then this is undertaken at the customer's own risk.

The customer must observe all instructions for usage, particularly the operating instructions and safety notices. We are not liable for defects resulting from a failure to observe our instructions for usage.

The deadline for asserting guarantee claims is six months from handover. The customer's rights of recourse in accordance with Section 933b ABGB [*Austrian General Civil Code*] are excluded. The burden of proof is on the customer to show that the item was defective upon handover. Section 924 ABGB is waived.

The customer waives any claims for damages unless the customer can prove that we have acted with gross negligence or wilful intent. Compensation shall not be provided for any indirect harm that may result, or for consequential harm caused by a defect, or for lost profits. Information concerning the possible applications and processing capabilities of our products, along with any technical advice or other information concerning their suitability and possible uses, their weights, dimensions, forms, colours, outputs or appearance, is given without any obligation on our part. The amount of damages shall in all cases be limited by the amount for which insurance coverage is in place. Any liability is excluded in cases of force majeure.

10. Retention of title

The delivered goods remain our property until full payment has been received, plus any VAT, and including any interest on arrears and any reminder or collection fees that have already been accrued, along with any legal costs. The goods that are subject to this retention of title can only be resold by the customer as part of the usual course of business. The customer is not entitled to dispose of them in other ways, and in particular is not entitled to pledge them or assign them as security. If third parties encroach on our rights as the owner based on the retention of title, the customer must take all steps necessary to safeguard our rights.

The customer hereby assigns to us all claims that it is entitled to pursue against its own customers arising from the sale of such goods, by way of security for the claims that we are entitled to pursue against the customer. Upon our request at any time, the customer must inform its own customer of this assignment, and must provide us with all the information and documents required for us to enforce our claims. The customer is only authorised to collect the money owing as a result of the resale if we ourselves do not reserve the right to collect the money owing. The customer is not entitled to dispose of such goods by means of resale with deferral of payment, unless the customer at the time of the resale informs its own customer of the aforementioned assignment by way of security, and makes an entry concerning the assignment in its account book.

The customer is entitled to process goods that are subject to the retention of title. We remain co-owners of the processed goods, in a proportion reflecting the value of our goods in relation to that of the end product. If the customer does not pay the purchase price, or fails to fulfil other contractual obligations, we are entitled to repossess the goods without this being regarded as a withdrawal from the contract. In such a case we shall only be obliged to return the goods to the customer if the customer then fulfils its contractual obligations, in particular, payment for the goods including any reminder or collection fees already accrued, along with legal costs.

11. Product liability

The customer must follow the operating instructions it is given and adhere to them exactly, including all notices and especially safety notices. The customer is aware that if it acts contrary to the operating instructions and notices or fails to observe them, then our liability as per the Product Liability Act ("PHG") no longer applies.

If the customer as an entrepreneur [*Unternehmer*] should suffer damage or loss in using the goods delivered by us, then claims against us in connection with this in accordance with the PHG shall be excluded. The customer may not sell, transfer, or pass on in any other way, goods that were manufactured for entrepreneurial purposes to consumers or persons that are not entrepreneurs as defined by the PHG. Protective effects arising from this contract to the benefit of third parties are excluded.

The customer waives, in advance, all rights of recourse against us or our sub-contractors (suppliers) that it would have been entitled to in accordance with Section 12 PHG. If our products or parts of our products are sold on by the customer, then the customer must contractually forward this waiver in its entirety to the purchaser, and this obligation to contractually forward the waiver must be an obligation for all subsequent purchasers. This obligation to contractually forward the waiver exists even if the customer or a subsequent purchaser of our products uses the said products to manufacture other products, and puts these other products on the market. Agreements concerning the forwarding of the waiver must be formulated in such a way that we and

our sub-contractors (suppliers) directly acquire the right, in cases of a claim by a person entitled to recourse in accordance with Section 12 PHG, to counter this person independently using the exclusion of the rights of recourse.

12. Final provisions

The place of fulfilment for our deliveries and performances, as well as the customer's duty of payment, is the MM Forsttechnik GmbH workshop. It is agreed that the competent court of Frohnleiten shall have exclusive jurisdiction. However, we are entitled, if we so choose, to pursue a claim against the customer at its place of general jurisdiction.

Any payment, purchase or other conditions of the customer that are not in accordance with these Terms and Conditions shall have no validity, even if those conditions contain a provision indicating that any conflicting provisions of the supplier shall not be valid. Any provisions or conditions imposed by the customer shall not be legally valid unless we have recognised them expressly and in writing.

Incoterms 2000 and Austrian law shall apply. Use of the United Nations Convention on Contracts for the International Sale of Goods (BGBl [*Federal Law Gazette*] 1988/96) is excluded.

If individual provisions of this contract are found to be invalid, the remaining provisions shall nevertheless remain binding. The invalidity of individual provisions has no effect on the legal validity of the remaining provisions. An invalid provision shall be deemed to have been replaced by a provision that comes as close as possible to the original sense of the provision while remaining legally valid.

These Terms and Conditions apply, without restrictions, for entrepreneurs as defined by the Consumer Protection Act.

Supplementary Terms and Conditions for Repairs

1. General

These conditions are supplementary to our General Terms and Conditions, and do not apply where our General Terms and Conditions, applied correspondingly, already provide us with more favourable provisions.

The person bringing the item to be repaired shall be considered to be fully authorised for the purposes of placing the work order. Transmission and receipt of orders either verbally, by telephone or by telegram takes place at the customer's own risk and expense. The work order for repairs shall include authorisation to carry out test runs or test drives with motor vehicles, agricultural machines, and other devices, and authorisation to contract out the work to specialist workshops.

2. Estimation of costs

A cost estimate shall only be drawn up if the customer specifically requests one, and is only binding if it is submitted in writing and is expressly designated as binding. Binding cost estimates can be exceeded by up to 10%. The performances and deliveries provided for the purposes of supplying a cost estimate shall be billed to the client if the work order is then not carried out in the suggested form or in a modified form.

3. Delivery

If the customer withdraws from the contract and is justified in doing so because of a delay that we are responsible for, then the customer must reimburse us for any work or materials that we have already performed or used. Any claims of the customer arising from the withdrawal, and in particular any claims for damages, are excluded except in cases of wilful intent and gross negligence.

4. Invoicing

The invoice is always calculated using the list prices or daily prices valid on the day of delivery, unpacked and ex works at the MM Forsttechnik GmbH workshop. If the amount being charged is the total price from the cost estimate, then a breakdown of the price shall not be provided. In the case of work orders that the customer has designated as urgent, any overtime and any additional costs occasioned by the accelerated procurement of materials shall be reimbursed by the customer.

5. Handover

Handover to the customer (or the customer's agent) shall generally take place at the MM Forsttechnik GmbH workshop, except in cases of remote installations. We will only collect or deliver the repair item or delivery item if specifically commissioned to do so, and at the risk and expense of the customer. The customer must collect the repaired item and pay the invoice immediately upon receiving notification of completion / readiness for dispatch.

For the duration of any delay in collection, the customer shall bear the risk for any loss or damage occurring to the repair item. For repairs that are to take place at the customer's location, our technician or technicians are, as far as is possible, to be provided with a suitable place to work (protected from dust, weather conditions etc.), and the cooperation of the necessary support staff must also be ensured.

6. Retention of title and right of retention

All items that have been delivered, or installed, remain our property until we have received payment in full. If the customer

defaults on payment, we are entitled to uninstall and/or repossess the items that remain our property on account of the retention of title, at any time and without acquiring any further permission from the customer.

We have a right of retention which applies to all objects committed to us by the customer, on account of any claims, including for expenditure or damage caused, arising from the repair job or arising from other legal transactions of any kind with the customer. This also applies in cases where the repair item is to be processed in a certain way upon the instructions of the customer. Any legal rights of retention over and above this remain unaffected.

7. Guarantee - liability

We shall provide the customer with a guarantee from the day of the handover (or, in cases of default of acceptance, from the day of the notification of completion) for the duration of 2 months as a basic principle, but for no more than 3000 kilometres travelled for motor vehicles, and for only one month or 200 operational hours for mobile or non-mobile motorized equipment and agricultural machines. In all cases, however, any further-reaching claims are excluded, in particular any arising from consequential damage relating to the repair work carried out or the parts that have been installed. The guarantee for parts that we did not manufacture and for third-party services is limited to an assignment of the claims which we are entitled to pursue against the supplier.

We are under no obligation to carry out material inspections unless the customer has commissioned us to do so in writing. Liability is excluded for defects which are not apparent without a material inspection, and for other hidden defects that the item being repaired / processed may have. We accept no liability and provide no guarantee for panes of glass, design modifications, purpose-built items or provisional repairs that may be carried out at the request of the customer, or for the colour-fastness of partial paint jobs. For us to carry out performances for the purposes of the guarantee, the customer must transfer the repair item to our workshop, at the customer's own risk and expense, and collect it from there afterwards.

In terms of the amount, liability is limited to the figure listed in the invoice for the repair.

8. Liability in cases of loss or damage

In cases of loss or damage to the repair item, we shall only be liable if the customer can prove that we have acted with gross negligence or wilful intent. This also applies for test runs and transfer journeys. If the customer or the customer's agent is the one driving on a test run, then this is undertaken at the customer's own risk. Our liability is limited to repairing the repair item or, if this is not possible or would entail disproportionately high costs, to reimbursing the cost of the repair item on the day that the damage or loss occurred.

In cases of loss and/or damage of the contents of the vehicle and its equipment, we are only liable if they were in order when we took the vehicle on, and we confirmed this ourselves in writing. We are not under any obligation to take out insurance of any kind for the repair item.

9. Spare parts

Unless otherwise agreed in writing when the order was placed, any leftover parts shall become our property, without any reimbursement being required. Any disposal costs shall be charged to the customer / client.