

General Terms of Delivery of the AL-KO Vehicle Technology Business Division

I. General Provisions

1.
For our deliveries and services in business transactions with company(ies) (hereinafter referred to as "contractual partner"), only the following terms of delivery and payment (hereinafter referred to as "terms") shall apply in the version valid at the time of delivery or performance. Deviating terms and conditions, particularly purchasing conditions, shall only be valid if they have been explicitly recognized in writing. This shall also apply in the event that the delivery is carried out by us without reservation after the contractual partner has objected to the validity of our conditions.
2.
The general terms and conditions are supplemented by special conditions, depending on the business field.
3.
By placing an order, the contractual partner expresses its agreement that our terms and conditions shall apply to the entire, including the future, business relationship with it.
4.
Insofar as they relate to the conclusion of the contract, all agreements and legally relevant declarations of the contractual partners and their representatives/vicarious agents must be made in writing in order to be valid, whereby the written form shall also encompass the text form including E-mail. This shall not apply to subsequent agreements that change the contract.

II. Offer, Conclusion of Contract, Change Reservation

1.
Our offers are always non-binding, unless otherwise agreed in writing.
2.
We reserve the right to amend the quality or quantity tolerances customary in the trade as long as this does not change the price and/or the essential performance features or the delivery time and the amendments/deviations are not unreasonable for the contractual partner.
3.
Irrespective of the form of the respective data carrier, the illustrations, weight and dimension specifications, technical data, etc. pertaining to our goods shall only be regarded as approximate values usual within the industry unless they have been expressly designated as binding by us in the order confirmation.
4.
Only our written order confirmation shall be authoritative as regards order acceptance, the scope of delivery and the delivery time. Proper and timely self-delivery remains reserved.
5.
Objections to order confirmations must be received in writing immediately, but within eight days of the date of issue at the latest.

III. Prices, Invoicing, Value-added Tax

1.
Our prices are net prices excluding packaging, freight, insurance and duty plus the value-added tax applicable on the day of delivery or performance.
2.
If there is a significant change in labour, material or energy costs, each contractual partner shall be entitled to demand appropriate adjustment of the price in consideration of these factors.

3. Electronic invoices:

We usually send our invoices as electronic invoices. Unless the contractual partner expressly requests an invoice in paper form when placing its order, the order shall also include tacit approval with the issue of an electronic invoice. The contractual partner may revoke this consent at any time with effect for the future and - either limited to an individual order or generally for all future deliveries - demand the issue of an invoice in paper form. On request, the contractual partner must provide us with an E-mail address to which the electronic invoices intended for it should be sent. We should point out to the contractual partner that an electronic invoice must be archived in the same electronic format in which it was issued and received.

4. Export certificate:

If a contractual partner with business premises situated outside of the country in which our contracting plant is located (foreign buyer) collects goods from us and transports or despatches them abroad itself or using authorised transport companies, the contractual partner must provide us with the export certificate required for tax purposes. If this certificate is not provided within a period of grace set by us, we shall be entitled to subsequently demand the value-added tax incurred on the delivery from the contractual partner.

5. VAT identification number and confirmation of arrival:

For deliveries to contractual partners based in another EU member state, the contractual partner must provide us, prior to delivery, with the VAT identification number under which it undertakes purchase taxation within the EU.

If we do not declare value-added tax in our delivery invoices for deliveries to contractual partners situated in another EU member state, this is undertaken subject to the proviso that the responsible tax authorities recognise a tax-free intra-community delivery. The contractual partner has a duty to cooperate to the extent that it must immediately provide us with confirmation of receipt of the delivered goods [arrival confirmation] in the form provided for this purpose when first requested to do so.

If the conditions for tax-free intra-community delivery are not met, e.g. because we have not received a VAT identification number or requested confirmation of arrival from our contractual partner even within a period of grace set for this purpose, we shall be entitled to subsequently claim the VAT incurred on the delivery from the contractual partner.

IV. Delivery and Performance

1.

Unless otherwise agreed, we deliver FCA (Incoterms 2010) from the location of our contracting plant. We are free to choose the shipping method, unless otherwise agreed. Small orders and spare parts deliveries are only shipped subject to payment in advance or cash on delivery and without granting our discounts.

2.

If delivery "free construction site" or "free warehouse" is agreed, this means delivery without unloading provided that an approach road accessible by heavy goods train (EC vehicle category N3) is available. If the delivery vehicle is instructed to leave the accessible approach road by the contractual partner, the latter shall be liable for any damage that occurs. Unloading must be carried out immediately by the contractual partner. Waiting times will be invoiced to the contractual partner.

3.

The "approximate" dates specified by us for deliveries and services are not legally binding. Fixed dates must be confirmed by us as such in writing. A delivery period is adhered to if, up to its expiry, the object of delivery has been separated out in the event of a collection obligation and handing the object of delivery to the transport person has been verbally offered to the contractual partner in the case of a delivery obligation.

4.

Insofar as is customary, partial deliveries and services are permissible and may also be invoiced separately by us. Partial deliveries or partial services are exceptionally impermissible if they are unreasonable for the contractual partner.

5.

If a non-binding delivery or service date is exceeded by more than 2 weeks, the contractual partner is entitled to request us in writing to deliver or perform the service within a reasonable period. If the delivery or service is not provided by us by the expiry of the period of grace, the contractual partner can declare its cancellation of the contract (withdrawal) in writing.

6. Force majeure:

We are not responsible for delivery and service delays due to force majeure. In these cases, we are obliged to notify the contractual partner immediately of the delivery or service disruption and its probable duration. In such cases, the deadlines and dates are extended by the time in question, but a maximum of 2 weeks. Such unforeseeable occurrences also entitle us to demand cancellation of the contract in whole or in part.

7.

The fulfilment of our delivery or performance obligations requires timely and proper fulfilment of the contractual partner's contractual obligations, particularly its payment obligations.

8.

If the contractual partner defaults on acceptance according to the statutory provisions, it bears the additional costs incurred as a result. As of the time of notification of readiness for collection, the contractual partner bears the risk of accidental loss or accidental deterioration insofar as a collection obligation exists.

In the event of a shipping obligation, the risk passes to the contractual partner on transfer to the transport person. The risk also passes if the conditions of defaulting on acceptance exist.

Goods reported as ready for collection as per the contract must be called off immediately; otherwise, we are entitled to deliver goods at the purchaser's expense and risk or to store them at our discretion and to invoice them immediately after setting a period of grace beforehand (reminder).

9. Storage charges:

If defaulting on acceptance by the contractual partner leads to delayed delivery, the contractual partner must reimburse us for the storage costs incurred for the duration of the delay subject to proof or as a flat rate amount of the storage costs usually charged for storage by a forwarding agent. Instead, we are also entitled to actually store the goods at a forwarding agent of our choice and to charge the contractual partner for the resulting storage costs.

The contractual partner is entitled to prove that no damage occurred or that any damage was less than that claimed.

10.

When transporting the goods collected from us, not only the legal provisions regarding load securing and recognised technical regulations, but also the AL-KO procedural instructions for securing loads in road traffic

(available for download at http://www.alko-tech.com/sites/default/files/newsletter/Fahrzeugtechnik/AGB/ladungssicherung_nov_2017.pdf)

must be observed by the contractual partner. The contractual partner shall also impose the above obligations on any contracted forwarding agents or transport companies.

V. **Terms of Payment**

1.

The date of payment stated in our invoice always applies as the due date. We therefore have the right to determine payment. If this payment period is exceeded, default will automatically occur, without the need for a reminder, if the debtor is responsible for the non-performance.

In the event of default, we are entitled to demand the statutory default interest applicable to business transactions. Further claims due to late payment remain unaffected.

2.

In deviation from number 1, payments are exceptionally carried out to the account specified in the currency applicable at the location of the contracting plant within 8 bank working days from the invoice date and receipt of the invoice and the goods without deductions insofar as the invoice does not specify a due date as per number 1. In this regard, the later event is material to the start of the period.

If SEPA direct debit payment has been agreed for payments, the contractual partner declares its agreement that we may shorten the deadline for the *pre-notification* of a direct debit booking to up to 2 days, in deviation from the standard period in the SEPA regulations.

3.

We only accept bills of exchange on the basis of a separate written agreement. Bank, discount and collection charges must be borne by the contractual partner.

4.

If, after the conclusion of the contract, we become aware of objectively given circumstances that are likely to reduce the creditworthiness of the contractual partner, we are entitled to refuse performance and stipulate a reasonable period within which the contractual partner must pay step by step in return for delivery or must provide security. In these cases, we can demand cancellation of the contract and compensation for non-performance if the contractual partner refuses or the deadline expires unsuccessfully.

5.

The contractual partner is not entitled to withhold the purchase price due to any counter-claims not arising from this contractual relationship. An offsetting right only exists with undisputed, decision-ready or legally established counter-claims. Furthermore, an offsetting right only exists if the counter-claim used by the contractual partner for offsetting results due to a reason that has (partially) entitled or would have entitled it to refuse payment.

VI. Retention of title

1.

All delivered goods (goods subject to retention of title) remain our property until full payment of all our claims from the business relationship, including future ones, irrespective of legal reason, is made even if payments are made for specially designated claims. For current accounts, the reserved property is regarded as security for our balance claim. The retention of title also applies in the event of resale and/or further processing of the reserved goods. In the latter case, the further processing takes place for us as the manufacturer.

2.

The contractual partner may only resell the reserved goods in the ordinary course of business as long as it is not in default and on the condition that its customers cannot offset against the claim from the resale with a counter-claim. The contractual partner is not entitled to dispose of the reserved goods in an other manner, particularly assignment by way of security and mortgaging.

3.

Claims arising from the resale of the reserved goods are already assigned to us by way of security until full payment of our claims (number 1) has been made. We already accept this security assignment.

If the contractual partner has already made advance rulings on its future claims arising from the sale of its goods, which may be contrary to the assignment to us by way of security (such as advance assignments under a factoring contract), the claims arising from the resale of our reserved goods are vested in the claim of contractual partner to the consideration paid to the beneficiary of the advance assignment (e.g. factoring bank) as assigned to us by way of security.

The contractual partner must inform us immediately if and as soon as it has made advance rulings on future claims arising in its business operations or if there are contractual or other obligations that may affect our security interests.

4.

The contractual partner is entitled to collect claims from the resale until our revocation, which is permissible at any time. The sales proceeds received from the resale of our reserved goods or surrogates replacing them (e.g. in the case of factoring) become our direct property to the value of our respective invoice share. Our right to collect the claim assigned to us ourselves in the event of non-compliance with our terms of payment remains unaffected. Upon request, the contractual partner is obliged to disclose the assignment to us to its debtors and to provide us with the information necessary to assert the claims. In the case of foreclosure measures by third parties in our security interests, the contractual partner must point out our rights and inform us immediately.

5.

If the contractual partner defaults on payment, we are entitled, after setting a reasonable period of grace, to demand the surrender of the reserved goods at the expense of the contractual partner even without withdrawing from the contract.

6.

The right of the contractual partner to resell and collect the claims from this expires automatically, without the need for a period of grace, if the conditions under which the contractual partner could apply for the opening of insolvency proceedings exist. This also applies on the fruitless expiry of a deadline set by us, up to which we had demanded advance payment or securities from the contractual partner due to a deterioration in its creditworthiness (see number V.4). If the contractual partner's resale right ends, we can demand the return of the reserved goods at the expense of the contractual partner. In any case, the contractual partner must reimburse us for additional freight, shipping and other expenses as well as any reduction in the value of the goods.

7.

The reserved goods are processed for us as the manufacturer, without obliging us. If the reserved goods are combined or processed with other objects not belonging to us, we acquire co-ownership of the new object in the ratio of the invoice value of our goods to the invoice value of the other goods used. Processed goods or our co-ownership shares of these are regarded as reserved goods in the sense of the above numbers.

8.

If the value of the securities existing for us not only temporarily exceeds our claims by a total of more than 10%, we will return securities of the appropriate amount at our discretion on request. This is carried out even if the estimated value of the securities exceeds 150% of the secured claim.

9.

In cross-border business transactions, the contractual partner must take the measures necessary in its home country to protect our retention of title. This includes, for instance:

- In Switzerland: participation in the registration of our retention of title in the official register;
- In Austria: the entry of an extended retention of title, stating the purchase price claim in its books;
- In Spain: participation in the preparation of a notarial certificate.

If a comparable reservation of title regulation as is possible according to the law applicable at the location of our contracting delivery plant is not recognised in the contractual partner's home country (particularly in the absence of the extended retention of title institute), we may obtain a bank security, bank guarantee or adequately valuable security to the value of the corresponding order value of our goods deliveries from the contractual partner at any time.

VII. Liability of the seller due to lack of conformity (liability for defects)

1.

The contractual partner is entitled to the provision of our deliveries and services in accordance with the contract. Unless otherwise agreed, we are liable for any lack of conformity, particularly material defects, in accordance with the statutory provisions.

2.

We are not liable for lack of conformity caused by unsuitable or improper use, faulty installation or commissioning by the contractual partner or third parties, normal wear and tear, incorrect or negligent handling, or for the consequences of improper modifications or repairs undertaken by the contractual partner or third parties without our consent.

3.

Before exercising its legal remedies, the contractual partner will grant us a reasonable period of grace to fulfil our contractual obligations and grant us the opportunity to properly review the claims made against us. This does not apply in cases in which subsequent performance is impossible, we are justifiably entitled to refuse subsequent performance or subsequent performance has failed.

4.

The contractual partner is obliged to inspect the goods within a short period of time, but at the latest within 5 working days of receipt at the intended destination. The contractual partner must provide written notification of obvious defects within a reasonable period of time, but no later than 14 calendar days after receipt of the goods at the intended destination, and of hidden defects within a reasonable period of time, but no later than 14 calendar days after the discovery of the defect. The type of defect must be specified in detail.

5.

In the event of justified notification of defects in good time, we will repair the substandard goods or deliver a flawless replacement, at our discretion, provided that subsequent performance is not impossible or involves disproportionate costs.

6.

If the contractual partner incurs a claim for damages due to defects in the purchased item, we bear liability for the first year as of delivery in accordance with the statutory provisions.

After the expiry of the first year as of delivery, we are only liable for damages as follows:

We bear full liability for grossly negligent and intentional breach of duty, as well as for malice, quality guarantees or liability under the product liability law. We also bear full liability for any culpable injury to life, limb or health.

Otherwise, we only bear liability for slight negligence in the case of breach of material contractual obligations (cardinal obligations). These are essential contractual obligations that make the implementation of the contract possible and on whose compliance the contractual partner can regularly rely. In the event of a slightly negligent breach of cardinal obligations, however, we only bear liability for the foreseeable damage typical under the contract.

The limitation of liability for slightly negligent breach of cardinal contractual obligations is waived if the slightly negligent breach of these obligations resulted in injury to life, limb or health.

These liability exclusions and limitations apply to the same extent in favour of our entities, legal representatives and vicarious agents.

7.

A general discount for the limitation of the defect rights in the event of entrepreneurial recourse (Article 4 of Directive 1999/44/EC) is already taken into consideration in the agreed prices.

8.

The warranty period for replacement parts that are supplied and installed as well as repairs is 1 year from delivery/installation. In deviation from this, we bear liability for damages resulting from this as regulated above in no. 6.

VIII. Product liability

We bear liability for damages due to a product defect according to the statutory provisions concerning product liability.

IX. Limitation of liability

1.

We bear full liability for grossly negligent and intentional breaches of duty. We also bear full liability for any culpable injury to life, limb or health. We additionally bear full liability for malice, quality guarantees and according to the product liability law.

Otherwise, we only bear liability for slight negligence in the case of breach of material contractual obligations (cardinal obligations). These are obligations that make the implementation of the contract possible and on which the contractual partner can regularly rely. In the case of slightly negligent breach of essential contractual obligations, however, this liability is limited to the foreseeable damage typical under the contract, unless it resulted in injury to life, limb or health. In the latter case, we again bear full liability.

2.

These liability exclusions and limitations apply to the same extent in favour of our entities, legal representatives and vicarious agents.

X. Confidentiality

1.
The contractual partner undertakes to treat all non-publicised commercial and technical details, to which it may become party as a result of the business relationship with us, as trade secrets.
2.
Drawings, models, templates, samples and similar items must not be handed over or otherwise made accessible to unauthorised third parties. The duplication of such items is permitted only within the framework of the operational requirements and the copyright stipulations.
3.
In the event of non-acceptance of an offer submitted by us, the contractual partner undertakes to completely and immediately return the offer documents transferred to it by us to us.

XI. Other Provisions

1.
Unless otherwise agreed in writing, the place of performance is the location of our contracting plant.
2.
The place of jurisdiction for both contractual partners is the location of our contracting plant if the contractual partner is a businessman, a legal entity under public law or a public special fund. Irrespective of this, we are also entitled to institute legal proceedings against the contractual partner at its general place of jurisdiction.
3.
For the contractual relationship, the law of the respective place of jurisdiction (*lex fori*) is exclusively applicable, to the exclusion of provisions relating to the conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods [CISG] of 11 April 1980 applies to international cross-border transactions. Unless otherwise stipulated by the CISG, the legal relationship between the parties to this contract is governed by the material laws at the respective place of jurisdiction, to the exclusion of conflict of laws provisions.
4.
The contractual partner agrees that we may store and process the contractual partner's personal data received in the course of or in conjunction with the business relationship to the extent permitted by Directive 95/46/EC of 24 October 1995 (Data Protection Directive).
5.
Should any provision in these general terms and conditions or a provision in any of our other contractual agreements be or become invalid, this shall not affect the validity of the general terms and conditions or agreements as a whole. In this case, the parties to this contract shall attempt to replace the invalid provision with a provision reflecting the commercial intention of the invalid provision as closely as possible.
