



**LINDENAU**  
Full Tank Services

**Registered office of the company**

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General Terms and Conditions of Business  
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## **I. General**

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1. The present terms and Conditions apply to all quotations from the aforementioned company, hereinafter referred to as "Vehicle Constructor", and to all contracts of Vehicle Constructor with the customer (Purchaser or Orderer). All agreements made between Vehicle Constructor and the customer for the purpose of performance of this contract are to be recorded in writing in this contract. With placement of the order, Vehicle Constructor is authorised to trial and delivery trips.
2. The present terms and conditions of business and the entire business relations between Vehicle Constructor and the customer shall be governed by the law of the Federal Republic of Germany, ruling out the UN Convention of the International Sale of Movable Goods.
3. Quotations and estimates of costs shall be subject to change without notice with a view to possibility of delivery, delivery time and delivery quantity. The contract has been concluded when Vehicle Constructor has accepted the order in writing within the period of the quotation. The scope of the supply or repair shall be based on the information in the order confirmation.
4. The courts at Vehicle Constructor's registered office shall exclusively be internationally and locally competent for all disputes from or on the occasion of the present contract.

## **II. Price and payment terms**

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1. Cash payment rebate, discount or oral agreements with Vehicle Constructor shall only become contents of the contract if they have been expressly

confirmed in writing. Price changes caused by increased wage or material costs shall only be admissible if more than four months elapse between the conclusion of the contract and the agreed delivery date; then, Vehicle Constructor's price valid on the day of delivery shall apply.

2. The costs and risk of delivery, i.e. in particular for transport insurance, freight, loading and customs, as well as the statutory turnover tax, fees and other public dues shall be charged to the customer.
3. Payment orders, bills and cheques are only accepted following specific agreement and by way of payment, not in lieu of performance, with all collection and discount allowances being charged. Forwarding and prolongation shall also not be deemed fulfilment.
4. Only payment by receipt of the supply or the repaired vehicle shall be deemed cash payment. The purchase price / working wage shall be due for payment without deduction within 14 days of invoicing and supply of the goods, to the extent that nothing to the contrary has been agreed in writing. With the expiry of the aforementioned payment period, the customer falls into arrears. The purchase price / working wage shall bear interest at a rate of 12% during arrears. Vehicle Constructor reserves the right to claim further damages from arrears.
5. The customer can only offset against Vehicle Constructor's claims if its counterclaim is undisputed or a legally effective title exists; the customer can only claim a right of retention if it based on counterclaims from the same contractual relationship.

### **III. Estimate of costs**

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If the customer requests an individual price statement, a written estimate of costs shall be necessary. In it, all the work shall be listed in detail and provided with the price in question. Vehicle Constructor shall be bound by this estimate of costs until the expiry of eight weeks after it has been provided.

### **IV. Retention of title, transfer by way of securing and liens**

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1. All objects of purchase remain Vehicle Constructor's property until complete fulfilment of all obligations of the customer arising from the contract. If Vehicle Constructor has supplied the vehicle or trailer additions, the right of retention to these additions shall exist if they are not or do not become integral parts of the vehicle.
2. The retention of title shall also continue to exist for all claims originating in connection with the object of purchase, in particular claims from repairs, supplies of replacement parts, accessories and operating materials, adjustment and insurance costs and premiums to employers' insurance

scheme. If the customer is a public-law entity, a public-law fund or a merchant for whom the contract is part of the operation of his trade, the retention of title shall also apply to the claims which Vehicle Constructor has from its ongoing business relations with the customer. If the realisable value of the collateral existing for Vehicle Constructor exceeds its claims by more than 10%, Vehicle Constructor shall release collateral at its choice by request of the customer.

3. If Vehicle Constructor supplies additions which are connected with the substructure and/or the remainder of the vehicle such that they cannot be removed by loosening screw and bolt connections, or it supplies accessories (loading bridges, loading cranes, insulations, interior fittings etc.), it holds:
  - a. if the vehicle intended for the assembly of the addition is in a third party's retention of title or possession by way of security: the customer shall ensure that the third party grants Vehicle Constructor co-ownership of the retention of title or of the securing. It shall obtain a written declaration from the third party about this. Vehicle Constructor shall receive the sole right of retention or ownership by security if the third party's right ends. The customer shall then ensure that the third party hands over the vehicle or trailer registration to Vehicle Constructor directly. Vehicle Constructor shall be entitled to get in touch with the third party directly on account of agreeing a later handling of the retention or co-ownership.
  - b. if the vehicle intended for the assembly of the addition is in a third party's ownership: the customer shall be obliged to assign ownership by way of security to the entire vehicle including the addition to Vehicle Constructor and merely to use the vehicle on loan during the term of the ownership by security in the relation to Vehicle Constructor. The transfer by way of security and the agreement of the loan relationship shall be implemented when the vehicle is handed to the customer for the purpose of take-over, retaining the vehicle or trailer registration certificate.
4. In the event of repairs, the customer shall be obliged to transfer by way of security and use of the vehicle on loan if the repaired vehicle is handed to it after completion and before payment of the repair costs. The transfer by way of security and the agreement of the loan relationship shall be implemented as soon as the vehicle is handed to the customer for the purpose of take-over, retaining the vehicle or trailer registration certificate.
5. As long as Vehicle Constructor's retention of title or ownership by way of security exists, sale, pledging or transfer by way of security, rental or other provision of the goods for use shall be inadmissible without written consent from Vehicle Constructor. If the goods are resold by the customer before

payment with Vehicle Constructor's consent, the customer here and now assigns the claim against the third-party acquirer from the resale of the goods to Vehicle Constructor. Vehicle Constructor accepts the assignment. In such a case, the customer shall remain entitled and obliged to collect the claim to the purchase price as trustee until revocation. During the term of its ownership - subject to third parties' rights, Section 3 a - the sole right to possession of the vehicle or the trailer registration certificate shall accrue to Vehicle Constructor. The customer shall be obliged to apply in writing to the registration office that the certificate be handed to Vehicle Constructor.

6. In the event of third-party interventions against the conditional commodities, in particular seizures, the customer is informed of Vehicle Constructor's ownership. The latter shall be notified without delay so that Vehicle Constructor can assert its ownership rights. Insofar as the third party is not in a position to reimburse Vehicle Constructor for the judicial or extrajudicial costs originating in this context, the customer shall be liable for them.
7. During the term of the retention of title or ownership by security, the vehicle shall be insured by the purchaser against third-party liability and full cover with the proviso that the rights from the insurance accrue to Vehicle Constructor. Vehicle Constructor shall also be entitled to conclude the insurance, this being in the customer's name for its account. The insurance payments shall be used in cases of damage to the complete extent for restoration of the vehicle and the addition. In the event of a write-off, the insurance payments shall be used for redemption of Vehicle Constructor's claims, the additional amount shall accrue to the customer.
8. The customer shall have the duty to keep the vehicle in a proper condition during the term of the retention of title or ownership by security and have necessary upkeep done immediately in Vehicle Constructor's workshop or in a workshop acknowledged by Vehicle Constructor, except for emergencies.

#### **V. Assignment of insurance payments in repairs**

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1. For repair orders, the customer shall be obliged to assign its claims against comprehensive and third-party liability insurance to Vehicle Constructor to the extent that the claims to the insurance payment are based on the same incident of damage as the repair damage and to the extent that these claims are concerned with reimbursement of the vehicle damage (current value repair costs, reduction in value).
2. This assignment shall take place upon placement of the repair order, albeit no later than the statement of the date of damage and the insurance company. The customer shall be obliged to provide this information. Vehicle Constructor shall be entitled to get in touch with the insurance company directly itself.

## **VI. Arrears in payment**

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1. If it can be seen following conclusion of the contract that Vehicle Constructor's claim to the purchase price/working wage is endangered due to a lack of ability to pay on the customer's part (e.g. by application for opening of insolvency proceedings), Vehicle Constructor shall be entitled to reject performance according to the statutory provisions and - if applicable after setting a period of grace - to withdraw from the contract (§ 321, German Civil Code). If the customer falls into arrears with its payment or insurance duties or breaches its duties from Vehicle Constructor's conditional or security co-ownership, Vehicle Constructor shall be entitled to withdraw from the contract according to the statutory directives and to demand return of the goods on the basis of the retention of title and the withdrawal. If the customer does not pay the due purchase price / working wage, Vehicle Constructor may only claim these rights if it has already set a suitable period for payment by the customer without success or setting of such a period is dispensable according to the statutory directives. Insofar as Vehicle Constructor is entitled to demand return of the vehicle, the customer shall bear all the costs originating as a result of the change of ownership.
2. A breach of Vehicle Constructor's conditional or security co-ownership shall also exist if the customer breaches its duties towards the third party, conditional or security co-owner and the latter is entitled to re-possess or to exploit the vehicle.
3. With a view to the claims from the retention of titles, ownership by way of security and in arrears in payment, the customer cannot invoke the fact that it requires the vehicle or the addition for specific reasons, in particular to maintain its trade.

## **VII. Supply**

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1. Periods and deadlines held out as a prospect by Vehicle Constructor for supplies and services shall always only apply approximately unless a fixed period or a fixed date has been assured or agreed expressly in writing. Supply periods shall commence with receipt of the order confirmation by the customer or, if an open agreement about the form of performance is only later reached, at the latter point in time. Insofar as dispatch has been agreed, delivery periods and deadlines shall relate to the time of the handover to the forwarder, haulier or other third parties commissioned with transport. If the customer requests any kind of change to the object of supply before delivery, the delivery period shall not run until the expiry of the day of the agreement on the performance; Vehicle Constructor shall be entitled to adapt the delivery periods accordingly with such subsequent amendments.

2. The occurrence of arrears in supply by Vehicle Constructor shall be assessed according to the statutory directives. In any case, a caution from the customer shall be necessary.
3. Vehicle Constructor shall not be liable for impossibility of performance or for delays in supply to the extent that they have been caused by force majeure or other incidents not foreseeable at the time of the conclusion of the contract (e.g. disturbances of operation of all kinds, difficulties in material or energy procurement, transport delays, strikes, lawful lock-outs, lack of workforce, energy or raw materials, difficulties in the procurement of necessary official approvals or no, incorrect or unpunctual supply by suppliers) for which Vehicle Constructor is not answerable. Insofar as such incidents make supply or service considerably more difficult or impossible for Vehicle Constructor and the prevention is not only of a temporary duration, Vehicle Constructor shall be entitled to withdraw from the contract. In the event of obstacles of a temporary duration, the delivery or service periods shall be extended or the delivery or service dates postponed by the period of the prevention plus a suitable run-up period.
4. Vehicle Constructor reserves the right to changes in construction and shape to the extent that the planned appearance of the vehicle and its function are not fundamentally changed as a result and the changes can be reasonably expected of the purchaser with a constant quality standard.
5. The statements in the descriptions concerning outputs, weights, fuel consumption, operation costs, speeds etc. shall be regarded as being approximate. This shall apply to both the vehicle substructure as well as the vehicle addition produced by Vehicle Constructor. To the extent that the vehicle manufacturer or Vehicle Constructor have used characters or numbers to designate the order, no rights can be derived from these designations.
6. Vehicle Constructor shall be entitled to render part services to the extent that the part services can be used sensibly by the customer and no considerable extra expenditure or additional costs result for the customer from this.
7. If a vehicle is dispatched to the customer, dispatch shall be at the customer's expense and risk. In this context, risk shall pass to the customer at hand-over of the vehicle to the forwarder, haulier or other transporter. In the event of supplies abroad, the customer alone shall be responsible for observing the import directives of the country of supply. All and any necessary approvals shall be obtained by it.
8. If Vehicle Constructor falls into arrears with a supply or service or if a supply or service becomes impossible for it, whatever the reason, Vehicle

Constructor's liability shall be limited to damages according to Section XI. of the present general terms and conditions of business.

## **VIII. Take-over conditions**

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1. The customer shall have the right to inspect the vehicle with the finished addition and installations at the agreed place of acceptance within one week of the notification of readiness and to have a test run within the limits of customary trial runs of Vehicle Constructor. The costs of any trial run exceeding this shall be borne by the customer. If the inspection is not done within the aforementioned period, this shall be deemed a waiver of the inspection right. The vehicle and the addition shall then be deemed accepted and properly supplied with hand-over to the customer or its authorised representative. The customer's examination and notification duties pursuant to §§ 377, 381, German Commercial Code, shall remain unaffected. If the vehicle is driven by the customer or its authorised representative during a trial run before inspection, the customer shall be liable for damage caused to the vehicle in this context if it has been culpably caused by the vehicle driver.
2. If the customer remains in arrears with the take-over of the vehicle for more than fourteen days after notification of readiness, refrains from a cooperation action or if the supply by Vehicle Constructor is delayed for other reasons for which the customer is answerable, Vehicle Constructor shall be entitled to demand reimbursement of the damage incurred hereby including additional expenditure (e.g. demurrage).
3. The customer shall be obliged to collect its vehicle immediately after completion. In the event of non-collection of the vehicle, lump-sum demurrage to the amount of € 100.00 shall be charged per day from the 14<sup>th</sup> day, starting with the expiry of the collection period or - in there is no delivery period - the written notification of completion. The damages shall be higher or lower if Vehicle Constructor can prove higher or the customer can prove lower damage. However, the lump-sum shall be offset against Vehicle Constructor's further-reaching monetary claims.

## **IX. Technical data, registration**

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1. Plans, sketches and other technical documents, also samples, catalogues, brochures, illustrations and similar, shall always remain Vehicle Constructor's property under the protection of relevant statutory directives with a view to reproduction, imitation, competition etc. No later than acceptance of these documents, the customer acknowledges Vehicle Constructor's ownership and copyrights thereto and the duty to non-disclosure. The customer undertakes not to make these documents accessible to third parties or to use them outside the purpose for which they have been provided without Vehicle Constructor's prior written consent. In

the event of orders not being placed, all the documents are to be returned to Vehicle Constructor, in the event of a placed order only upon request.

2. Descriptions, dimensions, illustrations, statements of colour, plans, sketches and diagrams as well as weights or other output data in brochures or other publications shall merely reflect Vehicle Constructor's products in approximation. These aforementioned data are neither a guarantee nor a statement of property in the legal sense (§ 434, German Civil Code); the right to technical and other amendments not impairing the product's mode of function shall also remain reserved. Anything to the contrary shall only apply if the property or quality is expressly designated as being binding or guaranteed. No defect shall exist to the extent that the actual quality only inconsiderably deviates from that described.
3. All and any necessary registration of Vehicle Constructor's vehicles for road traffic shall be a matter for the customer alone. The customer shall have no claim to Vehicle Constructor obtaining exceptional approvals from statutory directives, e.g. the Road Traffic Registration Ordinance, industrial protection rules or guidelines for additions from the vehicle manufacturers in question. However, Vehicle Constructor shall support the customer in this regard within the framework of its possibilities.

## **X. Warranty**

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1. These warranty conditions apply to motor vehicles and trailers which Vehicle Constructor supplies in its own name and also to vehicle additions, accessory installations manufactured by it and repairs done by it. They also apply to installed parts which Vehicle Constructor does not manufacture. In the event of defects in tyres, batteries, electrical parts, hydraulic systems, V-belts, cooling appliances and tarpaulins on motor vehicles and trailers, Vehicle Constructor shall at its choice make its warranty claims against the manufacturers and suppliers for the customer's account or assign them to the customer. Warranty claims against Vehicle Constructor shall only exist for such defects under the miscellaneous conditions and according to the provisions of the present general terms and conditions of business if judicial assertion of the aforementioned claims against the manufacturer and supplier was unsuccessful or hopeless, e.g. due to an insolvency. During the term of the litigation, barring of the warranty claims in question of the client against Vehicle Constructor shall be inhibited. If a vehicle provided by Vehicle Constructor reaches a consumer which for its part is making justified warranty claims, the statutory claims to restitution (§§ 478, 479, German Civil Code) shall remain for the customer with the limitations agreed below in Section XI. and with observation of the regulations in Section X..
2. The customer's warranty claims shall presuppose that it has complied with its statutory examination and notification duties (§§ 377, 381, German

Commercial Code). If a defect is seen at the examination or later, we shall be notified in writing without delay. The notification shall be deemed without delay if it is done within eight days of supply in the event of open defects. Hidden defects shall be notified within eight days of discovery, albeit no later than three months from supply.

3. The warranty period shall be twelve months from supply or, to the extent that acceptance is necessary, from acceptance or in the event of non-acceptance 7 days after written notification of readiness for collection.
4. The warranty shall, at Vehicle Constructor's choice, be limited to replacement or after-work of the parts in which a defect in the material or the work exists. Parts which are replaced are to be sent or presented to Vehicle Constructor. Dismantled parts pass into its possession. The costs incurred as a result of this warranty for the dismantling and installation and possible for the dispatch of parts shall not be charged to the customer to the extent that a defect actually exists. Additional costs caused by the fact that parts to be dismantled in repair can no longer be installed as a result of ageing and wear and tear shall be charged to the customer. A claim to replacement supply of the complete vehicle shall merely exist if the defect can be proven to be based on a construction or material error which makes the entire vehicle unsuitable for use.
5. If after-work fails or if a suitable period set by the customer for subsequent performance has expired fruitlessly or is dispensable according to the statutory directives, the customer can, at its choice, demand reduction of the remuneration or withdraw from the contract. However, no right of withdrawal shall exist in the event of an inconsiderable defect.
6. Insofar as the customer is a public-law entity or a public-law fund or a merchant for whom the contract is part of the operation of his trade, warranty shall expire
  - a. if the object of supply or the repaired object has been changed by an outside party in a way not approved by Vehicle Constructor and the remedying of the defect is made impossible or unreasonably more difficult as a result,
  - b. if parts have been installed, use of which Vehicle Constructor has not approved,

All customers' - also consumers' - warranty claims shall expire

- c. if the customer does not obey Vehicle Constructor's directive on the treatment of the object of supply or does not comply with the care or maintenance recommended according to the specific manufacturer's directives for the vehicle,

- d. if exceeding of the total weight or axle pressure admissible according to the relevant directives of the Road Traffic Registration Ordinance or the useful load or chassis load-bearing capacity underlying the purchase agreement is established and a causal connection between one of these processes stated in this subsection 6 and the established defect exists following an examination by the Vehicle Constructor (e.g. expert analysis, e.g. DEKRA).
7. Vehicle Constructor shall grant no guarantee for natural wear and tear of supplied vehicles or natural wear and tear of replacement parts and parts subject to wear. This shall also apply to damage, storage and rust damage to be ascribed to improper treatment. As a deviation from the provisions in this Section X.: all and any warranty has been ruled out in the purchase of second-hand vehicles.
8. If Vehicle Constructor disputes the existence of a defect subject to warranty, the arbitration office of the Bodywork and Vehicle Construction Trade competent at Vehicle Constructor's registered office shall decide. If no arbitration office exists for Vehicle Constructor's registered office, a motor vehicle expert named by both parties shall decide. If there is no agreement on the appointment of an expert, an expert appointed by the Chamber of Trades or Chamber of Industry and Commerce competent for Vehicle Constructor's registered office by request of the customer shall decide. If the arbitration office or the expert establishes the existence of a defect subject to warranty, Vehicle Constructor shall bear the costs of the decision, otherwise the customer.
9. The customer's claims to damages or reimbursement of vain expenditure shall only exist according to the provisions of Section XI. and have been ruled out apart from this.

## **XI. Liability**

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1. Vehicle Constructor's liability for damage, whatever the legal reason, has been limited according to the provisions of this Section XI. to the extent not expressly regulated to the contrary in these general terms and conditions of business.
2. Vehicle Constructor shall not be liable in the event of simple negligence of its executive organs, statutory representatives, employees or other vicarious agents to the extent that it is not a question of a breach of cardinal contractual duties. Cardinal duties are those, fulfilment of which only makes proper performance of the contract possible and in compliance with which the contracting party regularly trusts and also may regularly trust.

3. To the extent that Vehicle Constructor is liable for damage pursuant to Section XI. subsection 2 as regards the reason, this liability shall be limited to damage which Vehicle Constructor foresaw or ought to have foreseen applying the care customary in the trade as a possible consequence of a breach of contract at the conclusion of the contract. Indirect and subsequent damage which is the consequence of a defect in the object of supply shall additionally only be subject to indemnification to the extent that such damage is typically to be expected in proper use of the object of supply. For damage caused by slight negligence, this liability shall be limited to the minimum sums insured according to the Compulsory Insurance for Vehicle Owners Act. However, reductions in value of the contractual object, loss of use, in particular costs of hire cars, loss of profits, costs of towing and contents of the car and loads shall not be reimbursed.
4. To the extent that Vehicle Constructor gives technical information or becomes active in consulting and if this information or consultancy is not part of the contractually agreed scope of service owed by it, this shall be done free of charge and ruling out any kind of liability, to the extent that nothing to the contrary has been agreed in writing.
5. The limitations of this Section XI. shall not apply to Vehicle Constructor's liability on account of malice aforethought, on account of injury to life, limb or health, to liability according to the Product Liability Act and for the event of Vehicle Constructor having given a guarantee for the properties of an object.

## **XII. Partial nullity**

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To the extent that the contract or the present general terms and conditions of business contain loopholes, the legally effective regulations which the contracting parties would have agreed according to the commercial objectives of the contract and the purpose of the present general terms and conditions of business if they had known of the loophole in the regulations shall be deemed agreed to fill these loopholes.