

General Terms and Conditions for Business Customers

1. General Information

- 1.1. Offers, deliveries and other services from **aps Aviation Parts Service GmbH (aps)** shall be provided exclusively on the basis of these sales, delivery and payment conditions which are considered accepted for the duration of the entire business relationship, i.e. even without new explicit agreement for future orders and services, unless otherwise agreed in writing between the parties. Any deviating conditions claimed by the person, company, firm or other legal body placing the Order, either on their own behalf as Client, or, as an agent for a Client (Customer), that are not expressly acknowledged in writing shall not be considered binding for the Vendor, even if these conditions are not expressly contradicted.
- 1.2. The individual services from **aps** can be found in service certificates or service descriptions that are separately agreed between the Customer and **aps**.

2. Offers, Orders

- 2.1. Offers from **aps** shall be subject to change. Special services and deliveries provided for the purpose of submitting an offer, e.g. travel, dismantling, etc., shall also be charged to the Customer if the planned services are not carried out or has been carried out in a modified form.
- 2.2. A legally binding contract shall only be concluded when **aps** confirms the order in writing, by telex, by fax or by e-mail. This also shall apply to orders accepted by representatives as well as to orders placed by telephone or fax and changes to orders by the Customer.
- 2.3. **aps** shall reserve the right to rescind the contract without giving reasons until the risk of changed prices has passed (delivery of the Goods to the Customer). **aps** shall not reimburse any resulting fidelity damage.
- 2.4. If **aps** orders are placed for the purpose of maintenance, repair or processing of parts supplied by the Customer, a list with the exact designations and, if necessary, the dimensions of the individual parts must be attached to them. If such a list is not included, the information in the **aps** order confirmation shall serve as evidence of the parts delivered.
- 2.5. In the absence of any other agreement, parts and materials replaced by **aps** shall become the property of **aps** without compensation.

3. Lieferbedingungen

- 3.1. Unless otherwise agreed, the Goods are available for collection or acceptance at the **aps** warehouse location. If the collection or acceptance is not carried out by the Customer himself, but by an agent, he must identify himself with a corresponding legitimation. **aps** is entitled, but not obliged, to check this legitimation.
- 3.2. **aps** shall deliver the Goods at the Customer's request, this is done at the Customer's expense and risk. Transport insurance is provided only at the request of the Customer which shall be invoiced for the Customer.
- 3.3. Partial deliveries and partial services shall be permissible.
- 3.4. Delivery times stated by **aps** are only binding if they have been expressly agreed in writing between the Parties.
- 3.5. If **aps** delivery or service is delayed, the Customer shall set a reasonable grace period. If **aps** fails to deliver the Goods or perform the agreed services within this grace period, the Customer has the right to rescind the contract.
- 3.6. **aps** shall have no liability for any failure to comply with any bindingly agreed delivery time to the extent that such failure is caused by a Force Majeure Event or other unforeseen events through no fault of their own which not only temporarily make delivery or performance significantly more difficult or impossible – even such event/s occur with suppliers of **aps** or their sub-suppliers. In these cases, **aps** is entitled to either postpone the delivery date or the service by the duration of the hindrance or to rescind the contract. In the event of Force Majeure or other unforeseeable and involuntary events, the Customer is not entitled to claim compensation of any sort, regardless the legal reason.

4. Prices, Payment

- 4.1. All the prices are ex works from **aps**, exclusive carriage, freight costs and packing, unless expressly agreed otherwise, e.g. ex works of the manufacturer. The Customer shall bear value added tax insofar as it is incurred as well as packaging costs if provided by **aps**.
- 4.2. The Customer shall pay all amounts in full without any set-off, counterclaim or deduction immediately upon receipt of the invoice. Unless otherwise agreed, det-offs or deductions are not permitted.
- 4.3. Customers may only withhold or offset due payments against their own counter-claims if these are uncontested or have been found to be legally binding.
- 4.4. Any of **aps**' receivables from the business relationship shall be immediately payable in the event of a default in payment or justified doubts about the Customer's solvency or creditworthiness. In any of these aforementioned cases, **aps** shall be authorized – without prejudice to other rights – to perform remaining deliveries only against advance payment. **aps** delivery obligations shall be suspended as long as the Customer is in arrears with a due payment. In the event of default in payment, **aps** shall also be entitled to charge interest at a rate of 8 percentage points above the respective base interest rate, insofar as it concerns payment claims.

5. Passing of Risk

Risk in the Goods shall pass to the Customer on acceptance or, if no acceptance is planned, with the collection of the Goods at the **aps** warehouse location. In the case of dispatch, the risk shall pass to the Customer as soon as the delivery has been handed over to the person carrying out the transport or has left **aps** warehouse location for the purpose of dispatch. If dispatch is delayed at the Customer's request, the risk shall pass to the Customer upon notification of readiness for shipment.

6. Default in Acceptance

- 6.1. The Customer is in default with the acceptance or collection if he does not collect the Goods or arrange for them to be dispatched within two weeks after he has been informed of the completion or availability of the Goods. If the Customer defaults in accepting or collecting, the risk of accidental deterioration, loss and destruction shall pass to the Customer.
- 6.2. If the Customer defaults in accepting or collecting, **aps** shall also be entitled to claim refund of any expenditure and compensation of damage associated therewith. If a period of grace of four weeks after notification of readiness expires without result, **aps** reserves the right to store the Goods elsewhere at the Customer's expense or to resell them.

7. Insurance

aps does not separately insure the subject of order handed over by the Customer. The Customer bears the risk of insurance coverage for the subject of the order while the repair is being carried out.

8. Material/Items of the Customer

- 8.1. If further items are handed over to **aps** with the subject of order, **aps** is only liable for damage to these items in accordance with Clause 12 of these Terms and Conditions.
- 8.2. The Customer shall grant **aps** a lien on all items delivered /handed over to it for all claims under the underlying Contract concluded.

9. Retention of Title

- 9.1. Delivered Goods shall fully remain property of **aps** (Reserved Property) until all claims are concluded by the Customer from the business relationship with **aps**. The retention of title extends to new products resulting from processing of Reserved Property. Processing shall always be carried out for **aps** as manufacture. In case of processing, combining or mixing of Goods subject to retention of title with goods of the Customer, **aps** shall be entitled to co-ownership of the new property inasmuch as the invoiced value of Goods sold with retention of title relates to the value of the other involved Goods.
- 9.2. The Customer may utilize the Goods owned or co-owned by **aps** in normal business operations, as long as the Customer is willing and able to properly meet his obligations towards **aps**. The following applies in detail:
 - 9.2.1. If the Customer defers the purchase to third party he may retain title of the processed Goods vis-à-vis that third party. Without this reservation, the Customer shall not utilize Reserved Property.

- 9.2.2. The Customer shall immediately assign to **aps** all receivables from the sale of Reserved Property, including bills of exchange and cheques, in order to secure **aps** claims from the business relationship. In case of processing in line with a Contract for work and services, the Customer shall immediately assign wage claims to **aps** in the amount of the pro rata sum of the Customer's invoice for the Reserved Property. The Customer is only authorized to resell or otherwise use Reserved Property if it is guaranteed that the resulting claims will pass to **aps**.
- 9.2.3. If the assigned claim is taken up in a current invoice, the Customer shall immediately assign a share of the balance corresponding to the amount of the claim (including the corresponding share of the closing balance) from the account current to **aps**. If interim balances are made and if their balance carried forward has been agreed, the claim resulting from the interim balance to which **aps** is entitled according to the previous regulation shall be treated as assigned to **aps** for the next balance.
- 9.2.4. Until **aps**' revocation the Customer shall be entitled to collect claims assigned to **aps**.
- 9.3. As long as the ownership is reserved to **aps**, the Customer shall carefully treat and store the Reserved Property and carry out necessary inspection, maintenance and service works at his own expense, as far as he can utilize them. During the duration of the title retention, the Customer shall neither pledge the Reserved Property nor assign them as security. **aps** shall immediately be informed in written form or by telex about accesses of third parties to the Reserved Property, for example, by way of attachment or confiscation, or damages or destruction. The Customer has to bear all costs that are necessary to revoke access and to replace of the Reserved Property, insofar as they cannot be collected by third parties.
- 9.4. If the Customer fails to meet his contractual obligations for careful treatment of Reserved Property as well as other obligations to exercise diligence as well as in the event of default in payment of secured claims, **aps** shall be entitled to reclaim Reserved Property. Reclaiming Reserved Property shall only be understood as rescind of the Contract if expressly stated so by **aps** in writing. After reclaiming Reserved Property, **aps** is entitled to utilization, whereas the proceeds shall be credited to the liabilities of the Customer less adequate utilization costs. The same applies if the customer acts in any way contrary to the terms of the Contract.
- 9.5. If the value of the realizable collateral deposited for the benefit of **aps** exceeds the amount of secured claims by a total of more than 20%, the Customer shall be entitled to demand that **aps** insofar release securities of the choice of the Customer.
- 9.6. If the retention of title is not or only to a limited extent admissible under the statutory provisions applicable in the Customer country, our aforementioned rights shall be limited to the legally admissible scope.

10. Warranty claims due to deficiencies

- 10.1. Warranty claims due to deficiencies of purchased Goods according to clause 11 of these General Terms and Conditions shall be only applicable if the Customer has properly fulfilled his obligation of examination and notification of defects according to §§ 377 of the German Commercial Code.
- 10.2. For the sales of used Goods, any liability for material defects shall be excluded.
- 10.3. For the sales of newly manufactured Goods, § 478 of the German Civil Code shall be applicable if **aps** has been obligated to take back the Goods because it is defective, or the consumer has reduced the purchase price, subject to the proviso that **aps** only takes over the reduction quota in case of a reduction through the consumer, which was applied in relation between the Customer and the consumer or the further intermediary.

11. Customer's rights in the event of deficiencies

- 11.1. The Customer shall only assert the following rights if **aps** has been notified about the deficiency in writing within the limitation period and the Goods have been immediately made available to **aps** upon request.
- 11.2. In case of justified and timely notification of deficiencies, it is at **aps**' discretion whether **aps** remedies the defects by means of subsequent improvement and amendment or replacement delivery. In the case of improvement and amendment, **aps** may decide whether this shall be carried out by repairing or exchanging defective parts.
- 11.3. **aps** shall be entitled to improve and amend several times. If **aps** fails to remove the deficiency within a reasonable time or the improvement and amendment has failed, the Customer may rescind the Contract or reduce the Contract price appropriately within his statutory rights.
- 11.4. In case of unjustified claims of deficiencies that have caused an extensive re-examination, **aps** may invoice the costs of re-examination to the Customer.

11.5. The limitation period for claims of deficiencies shall be one year from the transfer of risk according to clause 5 of these General Terms and Conditions.

11.6. Any warranty shall be void if the Goods have been applied contrary to the operating manuals or instructions of **aps** or otherwise improperly installed, used or stored; or used not according to Contract; or if the Goods has been maintained, repaired, modified or amended by the Customer or by a third party without the consent of **aps**, unless the Customer proves that these circumstances are not the cause for the claimed defect.

12. Liability

12.1. Claims for damages are – regardless of the type of breach of obligation and including unlawful acts – excluded, unless they are based on intentional or grossly negligent conduct.

12.2. In the case of a breach of essential contractual obligations, **aps** shall be liable for negligence, however, the compensation shall be limited to the amount for contract-typical and foreseeable damages. Claims for lost profit, saved expenses, compensation claims of third parties as well as other claims for indirect and consequential damages are not permitted.

12.3. The liability limitations and exclusions in the clauses 12.1 and 12.2 shall not apply for damages resulting from death, injury to health or physical injury.

12.4. If the liability of **aps** is excluded or limited, this shall also apply to employees, workers, representatives and vicarious agents of **aps**.

13. Sonstiges

13.1. Unless otherwise agreed in writing, these terms and conditions shall reflect the entire agreement between **aps** and the Customer. There are no oral ancillary agreements. Modifications, supplements and the suspension of these terms and conditions require the written form. This shall also apply to waiving the written form requirement.

13.2. Governing law between **aps** and the Customer, both for the conclusion and realization of the Contract, shall be the law of the Federal Republic of Germany excluding the UN sales law (especially the United Nations Convention on Contracts for the International Sale of Goods).

13.3. The place of jurisdiction for disputes arising from this Contract is Mönchengladbach. However, **aps** reserves the right to take legal action at the court generally responsible for the Customer's place of business.

13.4. Should any of the clauses of these General Term and Conditions be invalid or void, the validity of the remaining clauses or parts thereof shall not be affected.