



## 1. Preliminary Remarks

These terms and conditions apply to any and all contracts with entrepreneurs, legal entities under public law and public law special funds. Contrary terms and conditions of our customers/buyers do not become components of the contract even if we have not raised objection in a specific case. The customer/buyer accepts our terms and conditions by placing the order and/or by accepting our delivery.

## 2. Conclusion of Supply Agreements

- 2.1. Supply agreements (order and acceptance) and release orders as well as any amendments and/or supplements thereto shall be concluded in writing. Release orders may also be submitted by data transmission.
- 2.2. Our offers are subject to change. The order does not become binding on us until we have confirmed the buyer's acceptance declaration in writing.
- 2.3. The preparation of production, installation or other project documents shall be compensated separately if and when a supply agreement is not concluded or if and when the costs for preparation of the documents are unreasonably high in comparison with the value of the supply agreement.

## 3. Prices, Reservation of Price Changes

- 3.1. Our prices are shown excluding applicable value-added tax and are based on provision of the products in our plant, ready for collection and excluding packaging, freight, customs duties and insurance.
- 3.2. We are entitled to charge on any and all increases in material and wage costs, within the scope of, and in compensation of, any such increases occurring between the conclusion of the contract and delivery to the buyer for any and all orders — including release orders and successive supply agreements — for which the delivery, whether pursuant to the contract or at the request of the buyer, is performed more than 4 months after placement of the order.

## 4. Shipping, Transfer of Risk and Packaging

- 4.1. Unless otherwise agreed in writing, the buyer shall collect the ordered goods in our plants at its expense and risk.
- 4.2. If and when we have agreed to handle the freight, we do so for the buyer's account and at its risk unless otherwise agreed.
- 4.3. We decide what type of packaging will be used. Returnable packaging shall be returned free of freight charges or replaced with equivalent packaging.



- 4.4. If and when dispatch is delayed owing to circumstances for which we are not accountable, the risk transfers to the buyer on the day on which the buyer is notified of the readiness for dispatch.

## **5. Delivery Dates and Periods, Consequences of Default**

- 5.1. The delivery period begins as soon as all details of the performance of the contract have been clarified, both parties are in agreement regarding the terms and conditions of the transaction and the buyer has effected any advance payment which has been agreed. We are in compliance with the delivery period if and when the products have left our plants or the buyer has been notified of readiness for dispatch on or before the expiration of the period.
- 5.2. Any release orders from the buyer which are greater than the agreed quantities are permitted solely with our agreement and subject to an appropriate extension of the delivery period.
- 5.3. Compliance with the delivery period presumes the timely delivery of the materials which we have procured and ordered from third parties (e.g. steel) and which we require for production of the order. If and when our suppliers are not in compliance with the agreed delivery periods owing to reasons for which we are not accountable, we are entitled to extend the delivery period by a reasonable period and, in the event of permanent unavailability, to cancel the contract. We are obligated to notify the buyer immediately upon our learning of a temporary or permanent unavailability of the materials we have ordered and, in the event of a cancellation of the contract, to reimburse to the buyer without delay any and all consideration which has been paid. The buyer is entitled to cancel the contract if and when the statutory requirements have been fulfilled. Any more extensive claims of the buyer, in particular, but not limited to, damage compensation claims are excluded.
- 5.4. The following provisions apply to damage compensation claims in lieu of performance due to delayed performance or non-performance: If and when we are in default of delivery as a consequence of only simple negligence on our part, the buyer's claim to compensation of verified loss or damage suffered because of the default is limited in its amount to 0.5% for each and every full week of default and to a maximum in the aggregate of 5% of the invoice value of the order affected by the default. If and when the buyer is entitled to request damage compensation in lieu of performance, we are liable for payment of damage compensation, even in cases of simple negligence, in the event of a breach of cardinal obligations of the contract; however, any claims are limited to compensation of the loss or damage foreseeable at the time of the conclusion of the contract.
- 5.5. Force majeure or circumstances for which we are not accountable (e.g. operational disruptions, strikes) and which hinder the timely performance of the order entitle us to postpone the fulfilment of assumed obligations by a reasonable period or, if and when said circumstances make performance impossible for us, to cancel the contract in whole or in part. The above provision also applies if and when, owing to reasons for which we are not accountable, we do not receive, or do not receive in good time, from our own suppliers the materials we require for the performance of the order and have ordered from these suppliers. Prerequisite for the cancellation of the contract is that we notify the buyer without delay of the unavailability and reimburse without delay any consideration which has been paid by the buyer. Damage compensation claims of any kind whatsoever are excluded.



## **6. Terms and Conditions of Payment, Offset**

- 6.1. Our invoices are due and payable, free of any postage or charges and without deductions, within 30 days of the invoice date or the reported readiness for dispatch. We will charge annual interest of 8% above the current basic interest rate on any unpaid invoices after the due date; we reserve the right to charge any greater loss or damage resulting from the default.
- 6.2. Payment by bills of exchange or cheque shall not be deemed effective until their redemption. The buyer will be responsible for any exchange and discount charges.
- 6.3. We accept bills of exchange and cheques solely on account of performance; acceptance of bills of exchange is subject to separate agreement. Irrespective of the term of any accepted bills of exchange or a granted deferment, our claims will become payable immediately if and when the buyer fails to comply with the terms and conditions of payment or we become aware of circumstances which cast doubt on its creditworthiness. In this case, we are also entitled to supply products solely against advance payment or the provision of security or, upon expiration of a reasonable subsequent period, to cancel the contract and/or to request damage compensation.
- 6.4. The buyer may offset counterclaims against our payment claims solely if the counterclaims are undisputed or have been finally adjudicated by a court of law.

## **7. Confidentiality, Drawings, Models Etc.**

- 7.1. The parties covenant to treat any and all commercial and technical details which are not self-evident and which become known to them through the business relationship as business secrets.
- 7.2. Drawings, models, stencils, samples and similar items may not be surrendered or otherwise made available to unauthorised third parties and remain our property. The reproduction of any such items is permissible solely within the scope of operational necessity and copyright provisions.
- 7.3. Sub-suppliers shall be obligated mutatis mutandis.
- 7.4. The parties' use of their joint business relationship for advertising purposes is subject to prior written consent.

## **8. Tools and Related Expenses**

- 8.1. If and when we produce tools on the buyer's orders or our production of tools is required for the performance of the order, the buyer shall reimburse to us any and all usual and reasonable costs and expenditures which result, unless the buyer has concluded an agreement for lump-sum compensation with us.



- 8.2. If an when the price for the parts does not include an agreed amortisation of the tool costs, the compensation shall be due and be paid by the buyer in accordance with following unless otherwise agreed in specific contracts: 1/3 upon conclusion of the contract, 1/3 upon completion of the design drawings, 1/3 upon completion of the tool
- 8.3. The buyer will be granted co-ownership of the tool in the same ratio as its payments to the value of the tool; however, if we have produced the tool for the production of parts for the buyer, we are not obligated to surrender the forming parts and the design drawings to the buyer or third parties. They remain our know-how, and we retain both title and possession.
- 8.4. We are not obligated to surrender the tool to the buyer until the latter has paid the tool costs in full and the order for manufacture of the parts has been completed pursuant to the contract and provided that the pre-conditions justifying a right of retention do not exist.

## **9. Inspection and Complaint Obligation, Warranty/Liability**

- 9.1. The buyer is obligated to examine the consignment immediately upon receipt to determine its correctness and completeness and any obvious (visible) defects, in particular, but not limited to transport damage; if any such defects are determined, they must be reported to us immediately. Section 377 HGB [German Commercial Code] applies in all other respects.
- 9.2. With the exception of the buyer's possible claims to subsequent performance, price reduction or cancellation of the contract, we are not liable for the freedom from defects of purchased parts and of parts worked by suppliers provided that the defect was not recognisable for us and we ourselves are not accountable for the defect. This provision applies in particular, but not solely, if and when the supplier was stipulated to us.
- 9.3. Any damage compensation claims by the buyer against us are limited to the foreseeable loss or damage typical of the contract.
- 9.4. There are no claims due to defects if and when a defect is the consequence of the failure to comply with operating, maintenance or installation instructions, of unsuitable or improper use, incorrect or negligent handling by the buyer, natural wear and tear or changes or modifications in the product made by the buyer or third parties.

## **10. Retention of Title**

- 10.1. We retain title of ownership to the product (reserved goods) until any and all of our claims against the buyer pursuant to the business relationship, including claims arising in the future from contracts concluded simultaneously or at a later time, have been paid. The retained title and any and all rights shall be deemed security for the total balance of our receivables, including interest and costs, for a running account. The buyer shall notify us without delay of any attachments or other seizures by third parties.
- 10.2. The buyer is entitled to process and resell the reserved goods in the ordinary course of business. This authorisation lapses if and when the buyer is in default of payment or suspends payment of if a petition for the opening of bankruptcy proceedings against its assets is filed



(case of security/utilisation). The buyer is obligated to resell the reserved goods solely subject to retention of title and to ensure that the claims from the resale transfer to us pursuant to 10.5 and 10.6. The utilisation of the reserved goods for the fulfilment of contracts for work and work performance shall be deemed resale. The buyer is not entitled to any other disposal of the reserved goods, especially, but not limited to, pledging or assignment by way of security. Any assignment of the claims from the resale of our reserved goods is prohibited unless it is an assignment in the form of genuine factoring and provided that we have been notified and the profit from the factoring exceeds the value of our secured claims. Our claim becomes due and payable immediately when the profit from the factoring has been credited.

- 10.3. The buyer does not acquire title of ownership to the new product pursuant to Section 950 BGB [German Civil Code] by processing and working the reserved goods. The processing or integration is carried out on our behalf without obligating us. The processed and worked products shall be deemed reserved goods.
- 10.4. If the reserved goods are processed, combined and mixed with other goods, we are entitled to co-ownership of the new product in the ratio of the invoice value of the reserved goods to the invoice value of the other processed goods. If and when our title of ownership lapses owing to the combination, mixing or processing, the buyer transfers to us, here and now, any and all expectant rights to the new substance or product in the amount of the invoice value of the reserved goods or, in the event of processing, in the ratio of the invoice value of the reserved goods to the invoice value of the other products used, and shall store the substance or product on our behalf free of charge. Our rights of co-ownership shall be deemed reserved goods.
- 10.5. Receivables accruing to the buyer from the further sale of the reserved goods are assigned to us here and now. They serve as security in the same scope as the reserved goods. Any and all additional claims which serve in lieu of the reserved goods or otherwise arise with respect to the reserved goods such as insurance claims, claims from breach of obligation or actions in tort are also assigned. We grant to the buyer the revocable authorisation to collect the receivables assigned to us on its own behalf. We may revoke the collection authorisation if and when the case of security/utilisation arises.
- 10.6. If the buyer resells the reserved goods together with other goods - whether processed or not - the receivable arising from the resale will be assigned to us in the ratio of the invoice value of the reserved goods to the other goods. The resale of goods to which we have joint title in accordance with 10.4 will constitute assignment to us of an equivalent proportion of the claim.
- 10.7. On our request, the buyer is obligated to submit to us an exact list of its claims, including names and addresses of its customers, to notify its customers of the assignment and to provide to us any and all information required for the assertion of the assigned claims. The buyer authorises us to notify the customers of the assignment and to collect the claims ourselves as soon as the buyer is in default of payment or there is a worsening of its assets. We may request a review by our authorised representative of the status of the assigned claims as shown in the buyer's ledgers. The buyer shall submit to us a catalogue of the reserved goods still in its possession.
- 10.8. If and when the value of the existing securities exceeds that of the secured claims by more than 10%, we are obligated, at the buyer's request, to release the excess value of the securities at



our option, taking into account the buyer's interests. The invoice value at which the buyer procured the goods from us shall be deemed the value of the securities for basic and subsequent retention of title; the invoice value at which the buyer resells the goods shall be deemed the value for the extended reservation of title. The value in each case shall be subject to a valuation deduction of 1/3 of the procurement price or of the nominal value of the assigned claims.

- 10.9. Payment by bills of exchange, cheques etc. shall not be deemed effective until their secure redemption by the buyer. We accept cheques solely on account of performance. Payments in the form of a bill of exchange issued to us shall not be deemed effective until recourse to us for the cheque and/or bill of exchange is excluded. Irrespective of our more extensive security rights, the securities granted to us remain in effect until this point in time.
- 10.10. Pursuant to our retention of title, we may request return of the products if we cancel the contract. Irrespective of the further prerequisites pursuant to Section 323 BGB, we are entitled to cancellation, especially without setting of a further period, as of the point in time at which the buyer is in default of payment, whether in whole or in part. The above provision also applies if and when the buyer suspends payment or if and when a petition for the opening of bankruptcy proceedings against its assets is filed. The buyer shall bear any and all costs incurred by the repossession of the products. We are entitled to utilise the repossessed products as we choose.

## 11. Place of Performance, Venue, Proper Law

- 11.1. Place of performance is the site of our plants supplying the products.
- 11.2. The court with jurisdiction for our company's registered office is the venue; this is the office of the GEDIA parent company in Attendorn. The above provision also applies if and when the contracts have been concluded directly by our subsidiaries in Spain, Poland or Hungary.
- 11.3. German law applies to any and all deliveries and performances with the exception of the UN CISG.

## 12. Severability

If any provisions of these Terms and Conditions and/or the additional agreements are, or become, invalid, the validity of the contract as a whole shall not be affected. The parties are obligated to replace the invalid provision by a regulation which comes as close as possible to the commercial and legal intent of the invalid provision.

## Applicable for:

**GEDIA Gebrüder Dingerkus GmbH**  
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57439 Attendorn  
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**GEDIA ESPAÑA, S.L.**  
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E-08730 Santa Margarida i els Monjos, Barcelona

# General Terms and Conditions of Sale and Delivery of the GEDIA Automotive Group Companies



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## **GEDIA Hungary Kft.**

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