

AUTOSPLICE Europe GmbH - Mühlsteig 2 - 90579 Langenzenn - Germany

General conditions of sale (as of January 2020)

### **1. Scope of application**

All deliverables and services of Autossplice Europe GmbH (AUTOSPLICE) are provided exclusively on the basis of these general terms and conditions. Any deviating terms, particularly the terms of business of contractual partners, only apply if they have been expressly confirmed in writing by AUTOSPLICE before the conclusion of the contract. This also applies in individual cases where AUTOSPLICE has not objected to the general terms of business of contractual partners or where we provide deliverables or services to the customer unconditionally, despite awareness of contradictory or supplementary terms or those otherwise deviating from our general terms and conditions. These general terms and conditions apply to both existing business as well as all future business transactions.

### **2. Written form requirement**

Verbal declarations must be confirmed in writing to be effective. The written form requirement itself can also only be waived in writing.

### **3. Offers**

- 3.1 Our offers are non-binding, unless we have specifically designated them as binding. We reserve the right to make technical changes as well as changes to the form, colour and weight within a reasonable scope.
- 3.2 By ordering a product, the customer is bound by the constraints of section 145 of the German Civil Code [Bürgerliches Gesetzbuch]. We are entitled to accept the contractual offer made as part of the order within two weeks of receipt of the same.
- 3.3 AUTOSPLICE retains all ownership rights and copyright to images, drawings, calculations and other documents and data regardless of the data storage medium used; these must not be made accessible to any third parties. Any transfer to third parties requires the prior, express and written consent of AUTOSPLICE. The customer's documents may be made accessible to those third parties that we took into account when determining the required pricing as part of the offer and that we have commissioned with the provision of deliverables and services with permission.

#### **4. Delivery dates/delay**

- 4.1 Delivery dates and deadlines are non-binding, unless otherwise specified in writing. AUTOSPLICE is entitled to partial deliveries.
- 4.2 Compensation claims from the customer due to delay are excluded, provided AUTOSPLICE, its representatives or vicarious agents have not acted with intent or gross negligence. Regardless of circumstances, compensation claims are limited to typical contractual damages. In other cases, involving a delivery delay for which we are responsible, our liability for damages is limited to a lump-sum compensation equivalent to 0.5% of the delivery value of the delayed item per full week of delay, albeit to a maximum of 5% of the delivery value. All other legal claims and rights of the customer due to delay remain unaffected.
- 4.3 The customer is not entitled to decline acceptance of deliveries due to minor defects.
- 4.4 If a deadline for the performance of the order has been specified by us or agreed with the customer, this will commence with the receipt of our order confirmation, but not until all documents, approvals or other required information have been received from the customer for the purpose of order processing, particularly not until all technical queries have been resolved.

#### **5. Force majeure and no-fault delays**

Force majeure and subsequent encumbrances beyond the control of AUTOSPLICE or its suppliers, particularly traffic and operational disruptions, power outages, strikes or lockouts or other disruptions to procurement, manufacturing or delivery, delays due to checking and approval procedures dictated under customers or export control law, which are outside our scope of responsibility and which have a verifiably high impact on our ability to fulfil our obligation to perform, entitle AUTOSPLICE to postpone the deliveries for the duration of the disruption and based on the scope of its impact.

This also applies if such circumstances affect our suppliers or subcontractors. In the event of any hindrance to performance, we undertake to notify the customer immediately, citing both the cause of the disruption and the details of remedial measures.

However, if the incidents in question last longer than six weeks or if the provision of the service by AUTOSPLICE is rendered impossible due to said incidents, both the customer and AUTOSPLICE are entitled to withdraw from the contract.

#### **6. Prices**

- 6.1 The deliveries are calculated based on the AUTOSPLICE prices applicable on the delivery date plus the applicable standard rate of value-added tax. The specified prices are quoted EXW in accordance with Incoterms 2020, excluding costs for packaging, dispatch and/or customs, which are invoiced separately.

- 6.2 AUTOSPLICE reserves the right to increase prices as appropriate, taking the interests of both parties into consideration, if costs increase after the conclusion of the contract, particularly due to increased labour costs, e.g. due to wage agreements or higher material prices. Further details of the same can be made available to the customer on request.
- 6.3 Part deliveries are immediately charged and are each due and payable individually, regardless of the completion state of the overall delivery.
- 6.4 The customer is only entitled to set off claims if his/her counterclaims are legally binding, undisputed or have been acknowledged by us. Otherwise, the customer is only entitled to exercise a right of retention to the extent that his/her counterclaim is based on the same contractual relationship.

## **7. Dispatch**

- 7.1 The goods – including partial deliveries – are dispatched at the expense and risk of the customer. This also applies if AUTOSPLICE absorbs the freight costs in individual cases. With the transfer of the goods, the risk is transferred from the carrier/freight forwarder to the customer.
- 7.2 Freight costs are not disbursed in advance. The goods are transported by a carrier/freight forwarder chosen by AUTOSPLICE, without any obligation to target economical dispatch rates. Regardless of the selection of carrier/freight forwarder, AUTOSPLICE disclaims all liability for the transport.
- 7.3 Likewise, for goods that have been delivered at the expense of AUTOSPLICE, the risk is transferred from AUTOSPLICE to the customer at the time of transfer to the carrier.
- 7.4 For the export of the purchased goods, the customer is obliged to procure all documents required for the export (e.g. export and customs licenses, etc.) at his/her own expense. AUTOSPLICE disclaims liability for the legal permissibility of exporting the goods as well as their compliance with the legal and technical provisions of the importing country. In addition, AUTOSPLICE also disclaims liability for ensuring that the goods comply with the latest technical standards of the importing country.

## **8. Compensation of tool costs**

Provided that the transfer of ownership of tools, which are specially made or procured by AUTOSPLICE for use in producing goods to be delivered to the customer, has not been expressly agreed in writing, these tools remain the property of AUTOSPLICE. Even if the customer pays the manufacturing costs of the tools in full, this does not constitute any right to transfer of title for the tools in question.

**9. Warranty for defects**

- 9.1 Unless otherwise agreed in these general terms and conditions or in individual cases, the liability for material defects complies with legal requirements.
- 9.2 The customer's warranty rights require his/her previous compliance in due form with the obligations of examination and reproof incumbent on him/her pursuant to section 377 of the German Commercial Code [Handelsgesetzbuch].
- 9.3 Material defect claims for products that we have produced are time-barred once 24 months have elapsed from delivery. For defects limited to products or product parts that we have additionally bought in from third parties (including additionally purchased software), the warranty is limited to 12 months from delivery. This does not apply in the event of any maliciously concealed defect. However, the warranty period prematurely expires with immediate effect if the customer has performed any arbitrary repairs or modifications to the goods or failed to comply with the operating instructions. The legal regulations concerning suspension, interruption and recommencement of the time limits remain unaffected.
- 9.4 The customer must immediately report any material defects to AUTOSPLICE, including a written description of the defect in as much detail as possible.
- 9.5 For indisputably justified defect notifications, the customer is entitled to withhold payments to an extent commensurate with the material defects actually incurred. If the defect notification leads to any unfavourable situation, we are entitled to request reimbursement for any expenses thereby incurred from the customer.
- 9.6 For justified complaints, promptly filed, AUTOSPLICE rectifies the defects at its own discretion, either by replacement or repair free of charge (supplementary performance). If said supplementary performance is impossible, fails or is not rendered within an appropriate deadline stipulated by the customer, the customer may request a reduction in the fee or rescission of the contract. This also applies if AUTOSPLICE rejects the supplementary performance due to the unfeasibly high costs involved. The key factor to be taken into account when determining whether or not the costs of supplementary performance are feasible is particularly the ratio between the value of the purchased item in a defect-free state and the incurred costs of supplementary performance.
- 9.7 The customer is only entitled to exercise compensation claims due to defects in the delivered goods pursuant to number 10 of these terms and conditions.
- 9.8 Claims due to material defects are excluded if the defect is attributable to any breach of operating, maintenance or installation instructions, unsuitable or improper use, incorrect or negligent handling, wear and tear or improper encroachment on the purchased object by customer or third parties.
- 9.9 Details in catalogues, specifications and other product descriptions can only be considered to be quality or durability guarantees if they are individually designated in writing as such.

- 9.10 Defect claims do not apply in the case of only minor deviation from the agreed quality or in the case of only a minor impact on usability.
- 9.11 The customer is hereby informed that the quality details included in the service description do not constitute any kind of guarantee in a legal sense. Quality details that go beyond the scope of the product description as well as guarantees only apply to the extent declared to the customer, provided that these have been stipulated in writing by us.
- 9.12 Other claims made by the customer outside the scope regulated in the current section 9 due to material defects are excluded. This does not apply in the case of malicious concealment of the defect, failure to comply with a procurement guarantee, death, injury, harm to health or constraint on freedom and in the case of a malicious or grossly negligent breach of duty on the part of the supplier. Any change to the burden of proof that disadvantages the customer is not connected with the previous regulations.

## **10. Liability limitation of the seller**

- 10.1 The liability of AUTOSPLICE is limited to intent or gross negligence. This does not apply to liability pursuant to the provisions of the German Product Liability Law [Produkthaftungsgesetz] as well as to any damage attributable to culpable breach of a material contractual obligation (cardinal obligation) or involving death, injury or harm to health, for which we accept unlimited liability pursuant to the legal requirements. In the case of slightly negligent breach of a cardinal obligation, however, the liability is limited to typical and foreseeable damage.
- 10.2 Liability for indirect and consequential damages, particularly for loss of profits or production failure, is excluded – regardless of the legal basis for the same.
- 10.3 Liability for the loss of data is excluded, provided and to the extent that the client could have avoided such loss of data by taking appropriate precautions, particularly by making relevant back-up copies.
- 10.4 The above liability limitations apply similarly to our employees and agents as well as to those persons not included within the scope of managing directors and senior executives.

## **11. Usage rights**

- 11.1 For clarification, we would like to reaffirm that the delivery of the goods does not constitute any transfer of protective rights, and the customer is only entitled to use the goods to the extent contractually agreed is as dictated in accordance with the purpose of the contract.
- 11.2 The customer has a non-exclusive right to use software and firmware with the agreed performance features, in unchanged form and on the agreed devices. The customer may only make one backup copy without express agreement if this is required to safeguard future usage of the same.

**12. Payments and creditworthiness**

- 12.1 Invoices from AUTOSPLICE are due and payable within 30 days of the invoice date without discount, unless otherwise specified in writing.
- 12.2 Field representatives are only entitled to accept payments with written power of attorney.
- 12.3 All outstanding receivables to AUTOSPLICE immediately become due if the customer culpably fails to fulfil the payment obligations incumbent on him/her or ceases to make payments.
- 12.4 In addition, AUTOSPLICE is entitled to request advance payments for pending deliveries as well as withdraw from the contract, subject to issuing a reminder and allowing a sufficient grace period or demand compensation due to non-performance of contract. In addition and subject to issuing a reminder and allowing an appropriate grace period, the customer may be prohibited from the subsequent sale of goods and the goods supplied may be taken back at the expense of the customer.
- 12.5 The withholding of payments or offsetting the same against counterclaims of the customer is excluded, unless this has been expressly acknowledged in writing by AUTOSPLICE or legally confirmed.

**13. Retention of title**

AUTOSPLICE reserves ownership of all goods that it delivers pending payment in full for the same; in this respect, all deliveries are collectively considered as an inclusive delivery transaction. In the case of a current account, the retained property may be used as collateral for the balance claim of AUTOSPLICE. If the goods are combined by the customer with other objects to form a unified whole and if the other objects are considered the main items, the customer hereby assigns joint pro-rata ownership of the same with immediate effect to AUTOSPLICE, provided that the main item is in his/her possession. If the customer sells on the delivered goods in line with applicable standards, he/she also hereby assigns all claims resulting from the sale against his/her own customer, together with all ancillary rights, to AUTOSPLICE, pending settlement in full of all his/her claims. Under justified circumstances (e.g. default of payment), the customer is obliged, at the request of AUTOSPLICE, to disclose the assignment to third-party purchasers and provide AUTOSPLICE with all the information and documents required for the purpose of exercising his/her rights. AUTOSPLICE will release the securities it holds, provided that the value of the same exceeds that of the claims to be secured by more than 20% overall.

**14. General**

- 14.1 If a contractual partner ceases to make payments or if insolvency proceedings are opened against its assets or if legal or extra-judicial proceedings are filed, the other contractual partner is entitled to withdraw from the contract for the portion of the contract yet to be performed.
- 14.2 If any provision in the current conditions and the additionally concluded agreements proves or becomes invalid, the validity of the remainder of the contract remains unaffected. The contractual partners are obliged to replace the invalid provision by a valid alternative that most closely approximates the targeted economic effect of the invalid provision.
- 14.3 The legal relationship established in connection with this contract is governed by German substantive law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.4 Unless otherwise specified in the order confirmation, our business office is also the place of performance.
- 14.5 AUTOSPLICE is entitled to store and process data of the customer for settling business transactions in compliance with the provisions of the Federal Data Protection Act [Bundesdatenschutzgesetz].
- 14.6 The place of jurisdiction for all legal disputes arising from the contractual relationship is the head office of AUTOSPLICE. AUTOSPLICE is also entitled to file legal disputes via another competent court.