



Terms of Sale of VEM motors GmbH and VEM motors Thurm GmbH

1. Scope / conclusion of contract / general

- 1.1 The Terms of Sale apply exclusively in transactions with companies in the sense of § 14 BGB (German Civil Code), legal persons under public law or special assets under public law.
- 1.2 These Terms of Sale apply to sundry performance in the scope of continuous business relationships, also for those in future, even if these General Terms and Conditions are no longer expressly agreed upon. Supplementary to this, our price list also applies in the respectively valid version.
- 1.3 Contractual agreements apply, excluding the terms listed under figure 1.1. Other terms, in particular General Terms and Conditions of the customer, do not form part of the content of the contract, including when VEM does not expressly contradict these.
- 1.4 Amendments and supplements require our written confirmation for validity.
- 1.5 Fulfilment of this contract by VEM with regard to those supplied parts covered by state export regulations is subject to VEM procuring the necessary authorisation.
- 1.6 Documents and details provided by VEM, such as illustrations, plans, details of weight and dimension, are only binding if we expressly designate them as contractual components, or refer to these expressly.
- 1.7 VEM retains the right of ownership and copyright to samples, cost proposals, plans, documentation including information of a physical and non-physical nature – also in electronic form; third parties may only use these with prior authorisation.
- 1.8 Supplementary to this, the *"General Terms of Delivery and Performance of the Electronic Industry"* (ZVEI) also apply, we will be happy to provide these on request, free of charge.

2. Prices and payments

- 2.1 Prices are ex works, plus packaging, loading and value added tax at the statutory level.

- 2.1.1 For deliveries within the EU the customer must provide evidence of his exemption from value added tax in good time, with his VAT identification number, prior to the contractually agreed delivery date. In the event of no information being received in good time, or incomplete information, VEM reserves the right to invoice the statutory rate of value added tax.

- 2.1.2 For deliveries outside of the EU VEM is entitled to invoice value added tax retroactively if the customer fails to supply an export certificate within one month of the respective delivery.

- 2.2. Cost estimates are only binding in written form.

- 2.3 Unless otherwise agreed, the customer shall make payments incoming within 30 days.

- 2.4 Assembly, repairs and other services shall be invoiced at the valid cost rates of VEM. Surcharges will be invoiced for work outside of normal working hours. Travel and waiting times count as working time.

- 2.5 Payments are to be made, without deductions, to one of our accounts.

- 2.6 The customer may only charge up with reason and amount following a legally-binding counter-claim, or exercise right of retention.

3. Delivery/passing of risk/acceptance

- 3.1 VEM reserves the right to make reasonable partial deliveries and partial invoicing.

- 3.2 deliveries are made ex works, so long as not otherwise agreed, from the place of manufacture.

- 3.3 If acceptance is to take place, this shall be deemed to be passing of risk. If the customer has undertaken the transport of the item from the place of manufacture to the place of application, then the customer shall bear the risk for the duration of this transportation.

- 3.4 The regulations for passing of risk shall also apply if a partial delivery is made, or if VEM has undertaken other performance.

- 3.5 If despatch or acceptance is delayed or not performed due to reasons for which VEM is not responsible, then risk shall be passed to the customer with the reporting of the willingness to despatch or accept. VEM is obliged to take out all insurance policies requested by the customer, at his cost.
- 3.6 The customer may not refuse delivery in the case of insignificant variations in volume or where insignificant defects exist, his rights under figure 9 are not affected.

4. Retention of title

- 4.1 Ownership of the delivered goods is only transferred to the customer upon complete payment. If the validity of retention of title in the country of destination is associated with particular preconditions or formal regulations, then the customer shall be responsible for ensuring that these are met .
- 4.2 Prior to transfer of ownership, the customer may not pledge the delivered goods, nor offer them as security. The customer shall inform VEM of any confiscation or other disposal by third parties without delay.
- 4.3 In the event of behaviour contrary to the contract on the part of the customer, in particular in the event of delayed payment, VEM shall be entitled to retrieve the goods following issue of a reminder. The customer is obliged to hand the goods over in this case. Neither the application of retention of title nor pledging of the delivered goods by VEM shall be viewed as cancellation.
- 4.4 An application for the commencement of insolvency proceedings over the assets of the customer entitles VEM to cancel the contract and demand the immediate return of the delivered goods.
- 4.5 If the customer has his headquarters in the Federal Republic of Germany, then the following shall also apply:
- 4.5.1 VEM reserves ownership of the delivered goods, until sundry claims against the customer from the continuous business relationship have been met.
- 4.5.2 The customer is entitled to dispose of objects subject to retention of title in orderly business transactions. He shall dispose of the delivered goods under retention of title, if the delivered goods are not paid for immediately in full by the third party. Entitlement to further dispose of the delivered goods

shall lapse in the event of delayed payment on the part of the customer. The customer shall assign, to secure the claims of VEM, sundry claims from the disposal of the delivered goods to a third party or other legal reasons to VEM.

In the event of processing of retention of title and the consequent joint-ownership, the assignment shall only apply to the portion of the claim for the share of joint-ownership.

4.5.3 The customer shall also be entitled to withdraw the claims assigned to VEM, so long as he continues to meet his contractual obligations of payment to VEM. VEM may demand at any time that the customer names the assigned claims and the debtor, provides all details necessary for collection and informs the debtor of the assignment.

4.5.4 The processing of goods subject to reservation of title shall always be undertaken for VEM by the customer. If the goods subject to reservation of title are processed along with goods that are not in the ownership of VEM, then VEM shall obtain co-ownership of the new product in relation to the invoice value of the goods subject to reservation of title in relation to the other goods at the time of processing. Should the goods from VEM be combined with other mobile objects to form a unified object, and if the other object is seen as an principle object, then it shall be taken as agreed that the customer shall assign co-ownership to VEM to the proportion that the principle object belongs to them. The customer shall store the property or joint property for VEM. The object created by processing or incorporation is subject to the same conditions as the goods subject to the reservation of title.

4.5.5 VEM is obliged to release security to which it is entitled when the invoice value exceeds that of the outstanding residual claims by more than 10%, and this not only temporarily.

5. Obligation of customer to co-operate

In the case of assembly the customer shall make available all requisite assembly parts and ancillary items on site, all requisite preliminary work shall be completed, so that assembly may begin and be implemented without delay.

6. Delivery deadlines

- 6.1 All details provided by VEM with regard to duration and delivery deadlines are only approximate. Observance of a delivery deadline set despite this requires that sundry commercial and technical matters between VEM and the customer are clarified and that the customer has met all of his responsibilities. Should this not prove the case, then the delivery duration shall be extended accordingly.
- 6.2 Observance of delivery deadlines is subject to self-delivery, which must be correct and punctual.
- 6.3 The delivery deadline is seen as met if notice of dispatch is issued before expiry of the deadline. If acceptance is to be made, then the acceptance date shall apply, or the notification of preparedness for acceptance on the part of VEM.
- 6.4 In the event of the delivery deadline not being met due to force majeure, industrial action, delays in obtaining state authorisation or other factors outside of the influence of VEM, then the delivery duration shall be extended accordingly. The same applies in the event of a delay. VEM shall inform the customer of the commencement and ending of such events as soon as possible.
- 6.5 If dispatch or acceptance of the delivery goods is delayed for reasons for which the customer is responsible, then the costs arising from the delay shall be invoiced to the customer, in particular those for waiting times and travel time of specialised staff, also in the case of work being performed on a fixed-fee basis, or at expense of VEM. If, in the event of fixed-fee assembly, delays and/or additional expenditure occur that are not the fault of VEM, then the customer shall bear the arising additional costs. Calculation shall be made on the basis of the VEM price index valid at the time of assembly. If the customer, with the agreement of VEM, makes available assembly personnel, material and labour, the cost of which is to be borne by VEM, then a precise list of this is to be compiled, for confirmation by assembly personnel. Only vouchers such as these may be recognised in the event of a delayed invoice. The right to pursue further compensatory claims is reserved. The same applies if the customer has not opened a letter of credit before the agreed date.

- 6.6 VEM reserves the right, after the setting and expiry of an appropriate deadline, to dispose of the delivery goods alternatively and to deliver goods to the customer with an appropriately extended deadline.

7. Delivery delay/impossibility

- 7.1 In the event of partial impossibility the customer may only withdraw from the contract if the partial performance can be proved to be of no interest to the customer. If this is not the case, then the customer shall pay the contractual price due for the partial delivery. Beyond this figure 11 applies. If impossibility or inability occurs during the acceptance delay or due to a fault on the part of the customer, then he shall remain obliged to consideration.
- 7.2 If the impossibility is the fault of neither of the contracting partners, then VEM shall have a claim to a portion of remuneration that reflects the work performed.
- 7.3 If VEM should default and the customer suffer a loss as a result, then he shall be entitled to claim a fixed compensatory payment for default. This default compensation shall comprise 0.5% of the value of the part of the total delivery that could not be used in due course or as per the terms of the contract, as a result of the delay, up to a maximum of 5%. This shall apply to every full week from the time at which the claim has been received by VEM, in written form.
- 7.4 The customer is entitled to withdraw from the contract in the scope of statutory regulations if – under consideration of the legal exceptions – an appropriate deadline set by VEM to provide the performance is allowed to lapse without performance.
- 7.5 Further claims from delayed delivery are related exclusively to figure 11.

8. Acceptance

- 8.1 The products of VEM are deemed to be accepted two weeks after notification of preparedness for acceptance, unless the customer complains of significant defects within this period, and in written form.
- 8.2 The customer is only entitled to refuse acceptance if the defect prevents the usual and/or supposed use of the work and/or removes its value or significantly

reduces it. If the work is subject to defects that do not entitle refusal of acceptance, then acceptance shall be made under condition of elimination of those defects.

- 8.3 Refusal of acceptance, contradiction of acceptance or reservations of acceptance must be made without delay and in written form, with a description of the defect.

9. Defects of quality

- 9.1 At the discretion of VEM we shall deliver new goods or improve those already delivered that are proven to be defective following passing of risk as per figure 3 of these General Terms and Conditions. The customer shall claim defects of quality without delay and in written form, with indication and description of the defect. VEM reserves right of title for exchanged/replaced parts as per figure 4.
- 9.2 In particular, no guarantee is provided for loss incurred due to subsequent reasons, but not due to the fault of VEM: natural wear and tear, improper interference or maintenance work on the part of the customer or third parties, unsuitable or improper usage, faulty operation, assembly or commissioning, faulty or negligent treatment, incorrect maintenance, the use of improper equipment or replacement materials, faulty work on the part of the customer, damaging environmental conditions, chemical, electronic or electrical influences, alterations to the delivered product without the agreement of VEM.
- 9.3 For VEM to perform the improvements considered necessary at its discretion, or to provide replacement delivery, the customer must allow VEM the necessary time and opportunity, otherwise VEM is exempt from the liability and guarantee for the subsequent consequences. The customer is only entitled to eliminate the defects himself, or commission third parties to do so, and to claim compensation for the necessary expenditure from VEM in the event of a danger to operational safety, to prevent disproportionately larger loss from being incurred. VEM must be informed of this immediately.
- 9.4 If the reclamation is justified, then VEM shall bear the immediate costs of improvement or replacement delivery, the cost of the replacement part together with delivery costs. In the case of delivery/assembly

locations outside of the federal republic of Germany the total amount of the costs to be borne by VEM is limited to the total amount of the order.

- 9.5 In the case of culpable joint causation of the defects by the customer, in particular due to non-observance of his duty to avoid and reduce loss, VEM has the right to make a compensatory claim for joint causation on the part of the customer following the improvement.
- 9.6 The customer is entitled to withdraw from the contract if – under consideration of the statutory exceptions – a appropriate deadline set by VEM for the improvement and replacement delivery in the event of a defect fails to be met. If the defect is an insignificant one, then the customer only has the right to reduce the contractual price. The right to reduce the contractual price is otherwise excluded.
- 9.7 The applicability of §§ 445a and 445b of the German Law of civil right (BGB) is excluded.

10. Defects of title

- 10.1 Should the use of the delivered object lead to a breach of commercial copyright or industrial property rights within the deadline period named under figure 14, then VEM shall procure the right of further usage for the customer, or modify the delivered object in a manner in which no breach of industrial property rights subsequently exists. If this is not possible under economically reasonable conditions or within an appropriate period of time, then the parties shall be entitled to withdraw from the contract. Within the deadline period VEM shall exempt the customer from uncontested or legally ascertained claims of the holders of the industrial property rights.
- 10.2 The guarantee in the event of defects of title as per the aforementioned figure is to be concluded subject to the provision of figure 11 for the case of breaches of copyright and industrial property rights. It only exists if:
- the customer informs VEM of the details of the breach of copyright and industrial property rights in written form,
 - the customer supports VEM to an adequate extent in blocking the applied claims,
 - VEM reserves the right to defensive measures including out-of-court settlements,

- the defect of title is not based upon an instruction of the customer,
- the breach of title is not caused by the customer independently altering the delivered object or using it in an improper manner.

10.3 Sundry other claims arising from guarantee (in particular for compensation of losses that are not incurred on the delivered object itself) are based exclusively upon figure 11.

11. Liability

11.1 VEM is only liable for intent, culpable breach of contractual obligations, gross negligence of the owner/management or executives, culpable damage to life, body, health; defects that VEM has maliciously failed to declare, or the absence of which has been guaranteed by VEM; defects for which liability exists under product liability law for personal or material loss. This also applies in the case of breach of obligation in contractual negotiations, irrespective of the legal ground (in particular also for the compensation of loss that has not been incurred by the delivered object itself).

11.2 In the event of breach of significant contractual obligations, VEM shall also be liable for the gross negligence of non-executive employees, together with slight negligence. In the case of slight negligence liability is limited to loss that is typical of the contract and can reasonably be foreseen.

11.3 The liability of VEM for the destruction of data is limited to the cost incurred in its reconstruction, if this data has been secured by the customer in an orderly manner.

11.4 The compensation of damage to property alone is limited to the general principle of good faith, such as in the case of disproportion between the height of the contractual value and the height of the loss.

11.5 Further liability – from whatever legal grounds – in particular for the compensation of loss or damage that has not occurred to the delivered object itself, is excluded.

11.6 VEM is not liable for the consequences of defects for which no guarantee is provided.

12. Claims arising from insurance contracts

To the extent that VEM has direct claims against the insurers of the customer with regard to the delivered object, as additionally insured party, the customer hereby grants his authorisation for the pursuit of those claims.

13. Software

13.1 Software from another supplier included in the scope of supply is subject to the General Terms and Conditions of that supplier in first instance. Should these not be available, we shall provide them at the request of the customer.

13.2 Supplementary to the General Terms and Conditions, the above Terms and Conditions also apply accordingly. In the event of invalidity of the General Terms and Conditions of other suppliers the conditions of VEM shall apply.

13.3 The customer retains a long-term right of simple, non-exclusive usage to VEM software products. The issue of sub-licences is not authorised.

14. Limitation

14.1 Guarantee claims of the customer are limited to 12 months following passing of risk.

14.2 Statutory regulations shall apply in the event of intentional or malicious behaviour, together with claims arising from product liability law.

14.3 Sundry other claims of the customer – from whatever legal grounds – are limited to 24 months following passing of risk.

14.4 The beginning of limitation is determined according to statutory regulations.

15. Repairs and other services

The following applies supplementary to repairs and other services:

15.1 The customer shall inform the personnel of VEM, at his own expense, of the existing safety regulations and hazards, together with all measures necessary for the protection of individuals and material in the work place.

15.2 The customer shall support VEM in the implementation of works, at his own expense, to the requisite scope, as well as providing the contractually-

- determined assistance, such as preparation works, the provision of water and electricity etc.
- 15.3 The assistance of the customer must ensure that the work of VEM can be commenced immediately upon arrival of the personnel, and conducted without delay until acceptance.
- 15.4 Should the customer fail to meet his obligation, then VEM shall be entitled, but not obliged, to undertake the actions under the obligation of the customer himself, at his cost.
- 15.5 If a repair is unable to be performed for reasons that are not the fault of VEM, then performance already provided by VEM, together with associated expenses, shall be compensated by the customer.
- 15.6 Parts that are exchanged or replaced remain the property of VEM in the scope of figure 4.
- 15.7 If performance has been lost or deteriorates prior to acceptance, without fault on the part of VEM, then the customer shall recompense VEM the price, minus expenditure that is no longer performed.
- 15.8 Only repair contracts that are confirmed in writing are binding.
- 15.9 The customer is entitled to a reduction in the scope of statutory regulations for repairs and other services if – under consideration of statutory exceptions – an appropriate deadline set by VEM to provide the performance is allowed to lapse without performance.
- 15.10 If a possible reclamation of the customer is unjustified, either because no defect exists or if it does not fall within the scope of VEM, then the customer shall be invoiced for the costs incurred by VEM in inspecting or eliminating the defects.
- 15.11 VEM shall inform the customer of the completion of assembly work without delay ("notice of completion").
- 15.12 Works are to be accepted within 2 weeks of dispatch of the notice of completion. There is a separate acceptance protocol that is to be applied here. Should the acceptance fail to take place within the 2-week deadline period due to reasons for which VEM is not responsible, then the works shall be deemed to be accepted, unless the customer submits a written reclamation within this period for significant defects. No. 8.2 shall be applied.
- 15.13 Should VEM consider itself to be hindered in the orderly performance of its work, then it shall inform the customer of this without delay. If the cause of the hindrance lies within the scope of the customer, then VEM shall have a claim to an appropriate extension of the performance deadline.
- 15.14 Should the customer cancel the contract of work, then VEM shall have claim to the agreed remuneration, with the offsetting of the costs saved by VEM as a consequence of the cancellation of the contract, or saved from the alternative use of labour or facilities (§ 649 BGB).
- 15.15 Should, by amendment of the draft or other adjustments on the part of the customer, the basis of the performance foreseen in this contract be altered, then a new price shall be agreed upon under consideration of increased or reduced cost. The agreement shall be made prior to delivery of performance.
- 15.16 If a service is requested that is not foreseen in this contract, then VEM shall have a claim to a separate remuneration. However, this must be communicated to the customer before the beginning of that performance.
- 16. Miscellaneous**
- 16.1 For the sale of second-hand goods, sundry guarantees of VEM are excluded, unless VEM has an express statutory liability.
- 16.2 All taxes/charges and levies in association with performance outside of the Federal Republic of Germany shall be borne by the customer or, where relevant, reimbursed to VEM.
- 16.3 Data relating to individuals shall be stored by VEM under consideration of statutory regulations.
- 16.4 VEM shall reimburse no costs for the return transport of packaging.
- 16.5 The customer shall procure the authorisation and/or export and import papers required for the use of the products at his own cost.
- 16.6 Place of performance and service to be rendered for all obligations of the customer to VEM motors GmbH is Wernigerode. Place of performance and service to be rendered for all obligations of the customer to VEM motors Thurm GmbH is Zwickau



- 16.7 Should individual terms of these General Terms and Conditions or contract prove to be wholly or partially invalid, the remaining terms shall not be affected.
- 16.8 Jurisdiction for all disputes arising from this contractual relationship is the headquarters of VEM motors GmbH in Wernigerode. Jurisdiction for all disputes arising from this contractual relationship is the headquarters of VEM motors Thurm GmbH in Zwickau
- 16.9 The law of the Federal Republic of Germany applies, under the exclusion of all conflict of law rulings and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 16.10. VEM is authorized to use personal data that might have been collected from customers, suppliers and service companies for comparison with embargo or sanction lists or send this data to suitable offices for comparison. The customer agrees explicitly to this use of his data.
- If a violation of the embargo or sanction rules is detected, VEM is entitled to an extraordinary termination or withdrawal of the contract. Other lawful rights of VEM is remain unchanged by this.