

General Terms and Conditions

I. General:

Unless otherwise agreed in writing, the following terms and conditions, together with the repair-spare parts offer (garage-parts offer) form the basis of the transaction for the contract with Tschann. They are also deemed agreed if the buyer/customer/principal (hereafter: customer) refers to his own terms and conditions and Tschann has not expressly opposed them. Verbal agreements and offers that were not expressly confirmed in writing by Tschann and signed by an authorised signatory on behalf of the company are not binding. Several customers and co-obliged parties are jointly liable.

The deliverer of the vehicle identified via presentation of the vehicle documents is deemed the customer's authorised representative.

The customer authorises Tschann to place sub-orders, in particular to instruct special workshops as subcontractors to carry out works and to carry out test drives and transportation drives. In the event of any damages the customer's comprehensive and fully comprehensive insurance shall be liable. The customer will arrange the respective insurance cover. Liability by Tschann shall be excluded in any case.

II. Prices/Settlement:

Prices shall be deemed in EURO without discount or other reduction, strictly net plus the statutory value added tax. Packaging costs and other expenses shall be borne by the customer and are invoiced separately. The prices valid on the day the order is placed shall be relevant. The prices displayed at the company by Tschann shall form the basis for the calculation of the labour costs. The prices are subject to alteration and can be changed at any time without prior notice. In the event of orders that are expressly identified as urgent by the customer, necessary overtime and the additional costs resulting from the acceleration of the material procurement can be charged separately.

III. Payment terms:

The customer must make payments either in cash or by bank transfer. Cash payments are to be made at Tschann's cash register or to institutions authorised by Tschann to carry out collection only. Bank transfers must be made to the account to be announced by Tschann and are only deemed made once they are successfully credited to this account. Cheques and bills of exchange are accepted only in lieu of performance and after prior written agreement with Tschann. Collection- discount- and other bank fees charged to Tschann as a result of the payment must be paid to Tschann by the customer.

Unless otherwise agreed, the invoiced amount as well as the costs for ancillary services are due upon takeover of the ordered item and issuance or transmission of the invoice in cash, at the latest, however, within a week of notification of completion and issuance or transmission of the invoice. In the event of payment arrears, Tschann is entitled to charge late payment interest at the rate regulated in accordance with § 288 para. 2 BGB for Germany, or § 352 UGB for Austria. The right to claim higher damages caused by delays shall remain unaffected.

If Tschann has concluded an instalment agreement with the customer and the customer falls into arrears with an instalment by more than two work days, the entire outstanding receivable becomes due for payment immediately.

The customer may only assert counter claims by Tschann, if the customer's counter claim is undisputed or if a legally valid title exists; the customer is only entitled to assert a right of retention if it is based on claims under the contract.

Tschann is entitled to demand an adequate deposit for the quoted repair spare part costs. If the principal does not pay the agreed or quoted deposit, Tschann is entitled to withdraw from the contract. The same applies in the event Tschann becomes aware of financial circumstances concerning the customer that suggest that existing or future claims by Tschann may not be sufficiently secured any longer.

IV. Quote:

The preparation of quotes takes place upon the customer's express order only and is independent of the conclusion of a repair order. For the time required for the preparation of the quote Tschann shall receive compensation of max. 3 % of the quoted net repair costs from the customer. In the event of effective conclusion of a repair order the costs for the preparation of the quote shall be deducted in accordance with the scope of the order given. The customer will be charged separately for services (travel, installation works etc.) necessary for the preparation of a quote irrespective of the conclusion of a repair order.

Quotes are not binding unless commitments are guaranteed in writing in individual cases. If a binding quote was agreed, Tschann is bound to this quote until the expiry of 30 days after issuance. If additional works are required for carrying out the order or in the event of an unforeseen increase of the costs, the quote may be exceeded by up to 20 % without separate notice. Quotes are made exclusively in writing, verbal information about expected repair costs is therefore not deemed a quote. An undertaking with regards to flat fees is therefore excluded.

V. Delivery:

Tschann undertakes to meet agreed delivery dates. If the agreed delivery/completion date is exceeded many times, the customer is entitled to withdraw from the contract having granted a reasonable period of grace. Claims for damages due to non-fulfilment or arrears by Tschann are excluded. Both parties are, however, entitled to withdraw from the contract for 3 months after the original delivery date was exceeded. If the scope of work for repair orders increases versus the original order the delivery date shall be postponed accordingly. In the event of force majeure or other unforeseeable events there is no delay in delivery. Circumstances that make the production or delivery of the ordered goods impossible or exceedingly difficult, release Tschann from the agreed delivery date for the duration of the obstruction.

The customer has to order dispatch/shipment/delivery of the repair- or ordered item separately in writing and it will be carried out at the customer's expense and risk. If the customer withdraws from the contract because of non-compliance with the delivery deadline by Tschann in a justified way, Tschann is obliged to refund the deposits/advance payments made.

VI. Takeover and acceptance:

Takeover or acceptance of the ordered item by the customer shall take place at Tschann's premises, unless otherwise agreed. The customer is obliged to collect the ordered item within a week of notice of completion or transmission of the invoice, or to provide Tschann with a shipping address. In the event of repair services that are carried out within one work day, the deadline is reduced to 2 work days.

In the event of a delay in takeover on the part of the customer, Tschann is entitled to withdraw from the contract or demand compensation due to non-fulfilment after setting a period of grace of 8 days.

In the event of a delay on the part of the customer, Tschann is entitled to store the repair item themselves or at a third party at the customer's expense and risk.

The order is considered accepted upon takeover of the ordered item.

VII. Retention of title/Right of retention/Right of lien:

Insofar as installed accessories, spare parts and aggregates have not become significant parts of the ordered item, Tschann reserves the title to the goods until full incontestable payment of all receivables under the contractual relationship has been made.

With regards to all other receivables in connection with the delivery item, i.e. receivables resulting from repairs including pre-repairs, deliveries of spare parts, accessories and operating materials, parking costs, insurance costs etc. Tschann has the right of retention.

As a result of the receivables arising from the contractual relationship, Tschann has a contractual right of lien with regards to the ordered item. The contractual right of lien can also be asserted with regards to receivables resulting from works carried out earlier, deliveries of spare parts and other services, to the extent they are connected to the ordered item. The contractual right of lien shall only apply with regards to other claims under the business relationship if they are uncontested and if a legally valid title exists and the ordered item belongs to the customer.

VIII. Material defect:

Claims by the customer resulting from material defects are subject to a statute of limitation of one year from the date of acceptance of the ordered item. In the event the customer accepts the ordered item despite prior knowledge of a defect, he is only entitled to claims for material defects against Tschann if he reserves these upon acceptance. The customer must notify Tschann immediately of the defect. In the event the customer fails to notify Tschann, the goods are considered approved unless the defect is of a nature which was not detectable during the inspection. All warranty claims against Tschann expire if the customer carried out repairs to the services or deliveries provided by Tschann himself or via third parties. In the event the customer insists on the use of old or used parts instead of new DAF-spare parts for repair orders by Tschann, Tschann does not accept warranty for these spare parts. The same applies to spare parts the customer provides or delivers for installation.

The customer must assert claims as a result of material damage with Tschann. Tschann is entitled to remedy these in their own workshop. If an ordered item becomes inoperable due to a material damage, the customer is entitled to have the material defect remedied at another specialist workshop authorised by DAF after prior coordination with Tschann. In this case the customer has to ensure that the fact that this is the execution of a remedy of a defect of Tschann and that the dismantled parts must be made available to Tschann within an appropriate period of time, is included in the order form. Tschann is obliged to refund the costs that can be proven to have been incurred at market rates.

Replaced parts become the customer's property. If the customer does not request these parts within three work days from collecting the repaired item from Tschann, Tschann is entitled to dispose of them and they become the property of Tschann.

IX. Liability:

Tschann's liability, in particular, for loss and damage of the ordered item shall be limited to cases of intent and gross negligence due to its own fault or fault of its legal representatives or its agents; in the event of injury to life, body or health and in the event of infringement of significant contractual obligations, Tschann shall be liable for simple negligence, too. The manufacturer's liability in accordance with the product liability law shall remain unaffected. Significant contractual obligations are those that make proper execution of the contract possible and where the customer regularly relies and can rely on the fact that they are complied with or those that Tschann must grant to the customer in accordance with the contents of the contract. The extent of liability is limited to the damage foreseeable at conclusion of the contract. To the extent the damage is covered by an insurance taken out by the customer, Tschann shall only be liable for any related disadvantages to the customer. Liability by Tschann for the loss of money or valuables of any kind or any loads is excluded.

X. Various:

After completion of the repair, the vehicle is deemed handed over and all risks pass over to the customer. Vehicle keys are deposited at the customer's risk only.

The exclusive place of jurisdiction is, to the extent permitted by law, listed on the front page. The same shall apply if the buyer does not have a general domestic place of jurisdiction or after conclusion of the contract moves his domicile or habitual residence abroad or if his domicile or habitual residence is not known when an action is filed.