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GENERAL CONDITIONS OF SALE AND DELIVERY OF THE BBS GMBH

§ 1

Scope of application

- (1) These conditions of sale and delivery (hereafter referred to as : “**Conditions**”) apply exclusively for the deliveries of BBS GmbH (hereafter referred to as : “**BBS**”), in so far as other Conditions are not expressly authorised in writing by BBS. These Conditions apply even when BBS, in the knowledge of conflicting Conditions of the purchaser or ones which deviate from these Conditions, delivers the goods without reservation or accepts the order without reservation.
- (2) These Conditions apply only for commercial deliveries vis-à-vis entrepreneurs (§§ 14 I, 310 Civil Code) and legal entities under public law.
- (3) These Conditions also apply for all future business with the purchaser, even if they are not expressly agreed upon again.
- (4) Agreements or ancillary agreements deviating from these Conditions are subject to written confirmation by BBS to be valid. Deviations and ancillary agreements that have been confirmed in writing apply for the specific individual case only, without further effects for the future.

§ 2

Offer, conclusion of the contract

- (1) Offers of BBS are without obligation and revocable, unless a specific offer expressly provides otherwise.
- (2) The written order of the purchaser is a legally binding offer for the conclusion of a contract, that can be accepted by BBS via sales confirmation.
- (3) A supply contract is first formed through the written sales confirmation of BBS. Its content is decisive for that of the contract. If the purchaser does not object immediately, the content of the contract is established.
- (4) BBS reserves the right to design changes as far as they relate to customary and/or minor changes, in particular where constitute an improvement of the goods.

§ 3

Prices / payment conditions

- (1) All prices of BBS are understood to be "ex works" plus the legal turnover tax which is valid at the time of invoicing. Packaging and transport are invoiced separately. If BBS is not or not immediately provided with the VAT identification number of a purchaser resident in a European Country BBS will be entitled to increase the amount invoiced according to the regulations governing VAT.
- (2) In case of significant changes of the order (reduction of 10 % or more) a new price has to be agreed upon taking into account increase of costs.
- (3) Price changes are allowed when more than four months lie between the conclusion of a contract and the agreed delivery date. If thereafter until completion of the delivery the wages or material costs increase, BBS is entitled to increase the price appropriately in correspondence with the cost increases. The purchaser is only entitled to rescind from the contract when the price increase not-insignificantly exceeds the increase in the general cost of living between the order and the delivery.
- (4) Invoices must be paid within 30 days after receipt of invoice, without any discount on the payment. If other payment terms are agreed individually, invoices must be paid at their due date. Without prejudice to this, BBS is entitled at any time, without having to give reasons, to make a delivery conditional on immediate payment. Only if BBS has consented in writing or a permission is printed on the sales confirmation the purchaser may take a cash discount.
- (5) In the context of the SEPA Direct Debit Scheme the generally foreseen 14-day period for prenotification can be reduced to maximally one day before debit.
- (6) The purchaser is only entitled to setoff when his counterclaims are legally established, undisputed or acknowledged by BBS. Moreover, the purchaser is authorised to exercise a right of retention only in so far as his counterclaim rests on the same contractual relationship.
- (7) BBS is entitled to offset any payments of the purchaser to the oldest debt. If costs and interest have been incurred, BBS is entitled to offset any payments against (i) the costs, (ii) interest, (iii) the main debt.
- (8) BBS is entitled to transfer and assign any claims for payment resulting from the business relationship with the purchaser.

§ 4 Shipment

- (1) Shipment and transport are done at the expense and risk of the purchaser. The risk transfers to the purchaser – also in case of partial delivery – at the time the goods are turned over to the haulage contractor, at the latest however at the time when the goods leave the factory of BBS. At the wish and expense of the purchaser, BBS takes out an insurance policy against the usual transport risks.
- (2) If the delivery is delayed at the purchaser's instigation or a delivery is agreed on call in the individual case and the purchaser does not call for the delivery within two months after notice of availability, the goods are held in safe keeping or stored at BBS at the risk and expense of the purchaser.
- (3) The type of shipment and packaging are selected by BBS.
- (4) BBS avows its responsibility towards environmental protection. BBS organised the retraction and the duly recycling/disposal of used transport packaging according to legal requirements. Retraction and recycling is free of charge. In case you want to return used transport packaging to BBS, please contact your sales representative.

§ 5 Deliveries / delivery period

- (1) The deadlines for the deliveries are agreed by the parties. If the parties have agreed on a period of delivery, it begins to run with the date of the sales confirmation.
- (2) BBS is entitled to partial delivery unless this is unacceptable to the purchaser.
- (3) Observance of the agreed delivery and payment deadlines presupposes the timely receipt of all documents to be furnished by the purchaser as well as the timely provision of all required information and the fulfilment of all other obligations by the purchaser. If these prerequisites are not fulfilled in a timely manner, the deadlines will be extended correspondingly; this does not apply when BBS is responsible for the delays.
- (4) Beyond this, observance of the agreed periods and deadlines for deliveries presupposes timely delivery to BBS. Should BBS, not due to its own fault and despite observance of all commercial duties of care, because of untimely delivery to BBS be unable to meet the agreed periods and deadlines, liability due to default of delivery is



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In this case BBS undertakes to assign to the purchaser damage claims against the suppliers of BBS.

- (5) The delivery period is extended in the event of force majeure, strike and excusable inability by the duration of the temporary obstacle to performance for which BBS is not responsible.
- (6) If BBS realises that an agreed deadline cannot be met, BBS will notify the purchaser of this as soon as possible.
- (7) If BBS defaults on a delivery or performance, BBS shall be liable in accordance with the legal provisions, in so far as the delayed delivery or performance is not based on an intentional or grossly negligent behaviour for which BBS is responsible. In so far as the late delivery or performance is due to a simple negligent behaviour for which BBS is responsible, the liability of BBS for every completed week of the late delivery is limited to 0.5 % of the declared value per week, up to a maximum of 5 % of the declared value. This limitation of liability does not apply in so far as the delayed delivery or performance is due to a violation of an essential contractual obligation. In this case, however, the damages liability is limited to the foreseeable damage typical for such contracts.

§ 6

Reservation of the right to rescind

BBS is entitled to rescind from the contract when force majeure, strikes or natural disasters or when the failure to supply or incorrect or untimely supply by an upstream supplier makes the delivery fundamentally more difficult or impossible, and this obstacle for which BBS is not responsible is not merely temporary in nature.

§ 7

Reservation of ownership

- (1) BBS reserves ownership of the items delivered by BBS until unconditional and complete payment of BBS's claims deriving from the business relation. The aforesaid shall apply also if outstanding debits have been billed into a revolving account by BBS and the accounting balance has been struck and accepted.
- (2) BBS is entitled to take back the items delivered by BBS upon expiration of a two week deadline if the purchaser is in default with its payment obligation. A written request to take back the items is deemed a rescission of the relevant contract.



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(3) The purchaser undertakes to insure the conditional commodity at his own expense against breakage, fire and water damage and theft in an amount sufficient to cover the reinstatement value. Upon written request of BBS the purchaser undertakes to provide BBS with information with respect to the insurance coverag. The purchaser hereby assigns any claims for compensation against the insurance company to BBS, BBS accepts the assignment.

- (4) The purchaser is revocably entitled to resell the conditional commodity in the ordinary course of business. The accounts receivable of the purchaser from the resale of the conditional commodity including accounting balances arising from a revolving account are already now assigned to BBS, and BBS accepts the assignment. Besides BBS also the purchaser is entitled to collect the assigned account receivable, so long as he fulfils his payment obligations towards BBS. BBS hereby revokes this direct debit mandate, in case the purchaser fails to meet its payment obligations. In this case, the purchaser at the demand of BBS is obliged to provide BBS with all of the data required for the collection and to permit a review of the file of the assigned account receivable by an authorised representative on the basis of his accounting as well as to notify the debtors of the assignment. Pledges and transfers by way of security are not allowed.
- (5) The processing or transformation of the goods delivered and still owned by BBS is always made for BBS but without any obligation for BBS.
- (6) If the ownership of BBS in any item delivered by BBS expires through processing or transformation (sec. 950 BGB) and if the purchaser becomes the owner of the new object resulting from such processing or transformation, then the purchaser hereby transfers to BBS in advance a proportionate value of the item delivered by BBS as of the time of the processing or transformation corresponding to the co-ownership share in the new object generated by the processing or transformation. BBS hereby accepts the offer. The delivery is replaced by gratuitous custody.
- (7) If any item delivered by BBS is combined, mixed or blended (sec. 947, 948 BGB) with any other item belonging to the purchaser in a way that the item delivered by BBS becomes an essential component of a homogeneous item and the ownership of BBS in the item delivered by BBS expires because the the other item belonging to the purchaser is deemed the principal item, then the purchaser hereby transfers to BBS in advance a proportionate value of the item delivered by BBS as of the time of the combination, mixture or blending corresponding to the co-ownership share in the new object generated by the combination, mixture or blending. BBS hereby accepts the offer. The delivery is replaced by gratuitous custody.



(8) The purchaser must immediately notify BBS whenever third parties access the property of BBS as well as at his own initiative and by agreement with BBS at his own costs undertake suitable legal steps against this. If the third party is not able to reimburse BBS for any judicial and extrajudicial costs incurred by a claim based on § 771 ZPO, the purchaser is liable for any financial loss BBS incurs.

- (9) In the case of default of payment on the part of the purchaser, of a petition for the opening of insolvency proceedings concerning the assets of the purchaser, a transfer of the expectancy to third parties or of the transfer of the purchaser's business to third parties, BBS is entitled to take back the delivered goods and for this purpose to enter the business premises of the purchaser. After taking back the conditional commodity, BBS is authorised to sell it on the open market. The proceeds of the sale is to be credited against the account payable of the purchaser (minus appropriate sales costs).
- (10) BBS undertakes to release, at the purchaser's request, the securities to which BBS is entitled, in so far as they exceed the value of the accounts receivable to be secured, to the extent that they have not yet been settled, by more than 10 %. The selection of the securities to be released is incumbent upon BBS.

§ 8

Warranty / compensation / liability

- (1) BBS GmbH offers a 5-year warranty period from the date of purchase to all final customers of "winterproof" BBS light alloy wheels with a production date after 01 January 2015 for all finish varieties, such as brilliant silver, platinum silver, satin platinum, diamond silver, satin black, satin titanium and crystal black. BBS guarantees that the products are free of defects in workmanship and material on delivery to the final consumer. Defects occurring within the warranty period will be removed at the expense of BBS within a reasonable period after notification by BBS's repairing the defective product or providing replacement. If a removal of the defect is not possible in the opinion of BBS, or feasible only with a disproportionate amount of effort, BBS may also refund the purchasing price. There are no further claims under this warranty.



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Not covered by this warranty are damages of any kind that occurred after delivery to the end consumer, normal wear, improper handling and use, incorrect assembly, and any deterioration of the light alloy wheels that is not caused by an initial defect.

In case the light alloy wheels were installed to a vehicle that has neither a General Operating Permit (German abbreviation: ABE), nor a Technical Component Report (German abbreviation: TGA) or a Type Approval Certificate (German abbreviation: TTG), or if the requirements and recommendations in accordance with ABE or TGA/TTG respectively were ignored, the warranty shall lapse with immediate effect.

Any re-varnishing of the light alloy wheels by a third party will void the warranty immediately. Warranty claims can be made on presentation of the original proof of purchase (receipt, invoice). For this purpose, please contact our service department or the specialist dealer or garage where you purchased the wheels.

- (2) The purchaser is obliged to immediate confirmation of receipt of the goods and to examination of the goods after receipt. Patent defects must be communicated in writing by him to BBS immediately, at the latest within 10 working days after receipt of the delivery, latent defects within 5 working days after discovery, with specification of the invoice number. Otherwise the delivery shall be deemed to have been approved.
- (3) The purchaser must give BBS an occasion to verify the objection, in particular by making the damaged goods and its packaging available for inspection by BBS. At the demand of BBS, the goods complained about must be sent back freight prepaid to BBS. In the event of justified complaint, BBS shall remunerate the costs of the most favourable shipping route; this does not apply when the goods is located at a place other than that of the intended use.
- (4) Only the product description of BBS and only in case of written agreement entered into between BBS and the purchaser may be regarded as an agreed quality of the goods. Public statements, promotions or advertising messages never form a quality agreed upon. Statements on quality of the goods do not imply a guarantee (assurance) as set out in § 276 I BGB and/or § 443 BGB, unless a guarantee has been expressly agreed upon in writing. Information with regard to the deliveries of BBS are without any obligation by BBS and do not, even if they have been made in writing, imply an assurance of the quality of the goods or a quality agreed upon.

(5) In so far as the goods do have a deficiency, BBS is entitled at its choice to either supplementary performance in the form of a correction of deficiencies (rework) or to delivery of new deficiency-free goods (substitute delivery).

- (6) When rework or substitute delivery is impossible or refused or for other reasons for which BBS is responsible does not take place or fails within a reasonable period determined by the purchaser, the purchaser can at his option either withdraw from the contract or reduce the purchase price. A time limit does not need to be set in the cases where this is not required by law.
- (7) More extensive claims by the purchaser, particularly to damages instead of performance and to compensation for any other direct or indirect damage – including collateral or consequential damage, regardless of on which legal ground – are excluded. This does not apply when
- i. BBS has maliciously maintained silence concerning a legal or material deficiency or has assumed a guarantee for its absence or the composition of the good;
 - ii. the damage is due to the intent or gross negligence of BBS, of one of its legal representatives or vicarious agents or a negligent violation of essential contractual duties by BBS or these persons;
 - iii. a culpable violation of duty by BBS or its legal representatives or vicarious agents led to a physical injury or harm to health;
 - iv. liability is imposed in accordance with the product liability law.

In the case of simple negligence, however, BBS's obligation to pay damages is limited to the amount of the foreseeable damage typical for such contracts.

- (8) The provisions under section 6 above apply correspondingly for direct claims of the purchaser against the legal representatives and vicarious agents of BBS. Further compensation is precluded.
- (9) Contractual penalties (liquidated damages, lump-sum compensation in damages, etc.), to which the purchaser sees himself exposed from third parties, can - independent of the other prerequisites - only be asserted against BBS as damages when this was preliminarily agreed in writing between the purchaser and BBS or BBS, prior to conclusion of the contract, was notified in writing of the (under circumstances threatening) contractual penalties which were agreed between the purchaser and a third party.

§ 9

Interposition of third parties

In so far as the inadequate delivery item involves a product which BBS acquired in whole or part from a third party, BBS is entitled to assign the material defect rights which belong to BBS against the third party to the purchaser, and to refer the purchaser to the (judicial) recourse against the third party. In this case, a claim can only be made against BBS due to the deficiency of the object when the claims against the third party, despite timely (judicial) recourse, cannot be enforced or the recourse in the individual case constitutes an undue burden. This does not apply when,

- i. BBS has maliciously maintained silence concerning a legal or material deficiency or has assumed a guarantee for its absence or the composition of the good;
- ii. the damage is due to the intent or gross negligence of BBS, of one of the legal representatives or vicarious agents of BBS ;
- iii. a culpable violation of duty by BBS, the legal representatives or vicarious agents of BBS led to a physical injury or harm to health;
- iv. liability is imposed in accordance with the product liability law
- v. a case falling under § 478 of the Civil Code is present.

§ 10

Taking back non-defective goods as a matter of good will

The purchaser has no right to demand that non-defective goods are taken back. In so far as BBS in the individual case - not in exercise of a reservation of ownership, but rather on grounds of good will - declares that it agrees to take back the good, the purchaser receives a credit note in the amount of the net price valid on the day of the return plus the legal turnover tax applicable at the time of the return, at most however in the amount of the purchase price paid by the purchaser. BBS charges a fee (incl. quality check, packaging material etc.) of EUR 25.00 per wheel for re-storage. This fee will be deducted from the purchase price.

§ 11

Limitation of actions

- (1) All claims of the purchaser, on whatever legal grounds, are subject to a limitation period of 12 months. The limitation period commences upon receipt of the goods.
- (2) This does not apply in the cases of § 8 para. 5 i. - iv. of these Conditions .



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- (3) The limitation period in the case of a delivery recourse claim in accordance with §§ 478, 479 of the Civil Code remains unchanged.
- (4) In the event of negotiations the limitation period will only be suspended if BBS has negotiated in writing. A suspension ends three months after BBS' last written statement.
- (5) Remedial repairs do not result in the suspension of the limitation period.

§ 12 Copyright / Secrecy

BBS reserves any property rights and copyrights on all offers issued by BBS, cost estimates as well as drawings, images, calculations, prospectuses and other documents made available to the purchaser. The purchaser may not, without the prior express consent of BBS, make these objects (per se or their contents) available to third parties or disclose or reproduce them in any form.

§ 13 Data protection

BBS will treat the data received for purposes of the business relationship or in connection with it, regardless of whether the data came from the purchaser or from a third party, in accordance with the German Federal Data Protection Act, process this data by means of electronic data processing and forward the data to other people within the company.

§ 14 Trademark protection / Marking of the good

- (1) The purchaser is not entitled, without the prior written consent of BBS, to use product names of BBS (especially the trademarks). This applies independent of whether the marking should be done with the trademark on the goods itself, the packaging or the related printed matter and advertising material.
- (2) The purchaser is prohibited from affixing to the goods a special stamp or any other mark or to change the good in such a way that the good appears to be an original product of the purchaser himself or could give rise to the impression of being a special product.



(3) The buyer is prohibited to use the BBS logo in print or online media without prior written consent by BBS.

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§ 15

Place of performance / Jurisdiction / Applicable law / Other

- (1) In so far as nothing else has been expressly agreed, the registered office of BBS is the place of performance.

- (2) Exclusive jurisdiction for all disputes deriving from the contractual relationship is the registered office of BBS. However, BBS is also entitled to commence legal proceedings against the purchaser in its general place of jurisdiction.

- (3) The law of the Federal Republic of Germany applies as agreed without regard to the principles of conflict of Laws. Application of the UN Sales Convention is excluded.

- (4) Should one provision of these Conditions or a part of a provision be or become null and void, the remaining provisions or other part of the provision remain in full effect.

- (5) An English version of these Conditions has been made for convenience reasons only. In any case of doubt only the German version shall apply.

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