

General Terms and Conditions of Sale and Delivery for the Spare Parts Business of MAHLE Aftermarket Limited

I. Definition, Area of Application

1. The following General Terms and Conditions of Sale and Delivery apply to the business conducted by MAHLE Aftermarket Limited (hereinafter referred to as "MAHLE") regarding the sale and delivery of spare parts (hereinafter referred to as "Delivered Goods"). These Terms and Conditions shall solely apply, to the exclusion of any contradicting or conflicting terms or conditions that the contractual partner (hereinafter referred to as the "Ordering Party") may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Such terms or conditions shall not be recognised or accepted by MAHLE, unless MAHLE has expressly agreed to their applicability in writing, and this shall apply even where MAHLE is aware of such contradicting or conflicting terms and still delivers the Delivered Goods to the Ordering Party without any reservation.

2. Individual agreements made with the Ordering Party in particular cases (including side agreements, addenda supplements and amendments), shall take precedence over these Terms and Conditions in all cases provided always that such agreements have been accepted by MAHLE and by the Ordering Party in writing (which may include, without limitation, e-mail or fax).

3. These Terms and Conditions (as updated from time to time) shall also apply as a framework agreement covering future contracts for the sale of Delivered Goods by MAHLE to the Ordering Party without the need for MAHLE to refer to them expressly in relation to each order.

II. Conclusion of Contract (Offer, Offer Documents, Confirmation of Order)

1. Offers made by MAHLE are without commitment and subject to confirmation by MAHLE. When the Ordering Party orders goods, this shall be deemed to be a binding offer capable of acceptance by MAHLE within 4 weeks of receipt, unless otherwise stated in the order.

2. MAHLE hereby reserves all copyright and other intellectual property rights in and to any drafts, drawings, calculations, catalogues, images, product illustrations and other documents relating to the Delivered Goods. This shall also apply to any written documents that are marked "confidential". The Ordering Party shall not disclose or otherwise use any such materials or documents without express prior written permission by MAHLE. No representation or warranty is given by MAHLE in respect of the content of any such drafts, drawings, calculations or other documents and MAHLE is not responsible for and does not accept any liability in respect of any recommendations

included in such documents or materials for use of the Delivered Goods.

3. A contract for delivery shall not be formed until MAHLE has provided a written confirmation of the order for the Delivered Goods. Where MAHLE is able to prove that such confirmation has been provided by e-mail or fax, it shall be assumed that the Ordering Party has received such confirmation.

III. Prices, Terms of Payment

1. Insofar as not otherwise stated in the confirmation of order, all prices shall be considered to be "FCA – free carrier (MAHLE)" as per Incoterms 2010 including packaging; plus statutory value added tax valid at the time of invoice. The price shall be calculated on the date of delivery as per the prices stated in MAHLE's then current price list.

2. Insofar as no other terms of payment are agreed, payments must be made to and received by MAHLE within 30 days of the date of invoice without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Payment shall be effected by bank transfer.

3. If the Ordering Party fails to make any payment due to MAHLE under the contract by the due date for payment, then the Ordering Party shall pay interest on the overdue amount at the rate of 3% per cent per annum above the Bank of England's base rate as adapted from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Ordering Party shall pay the interest together with the overdue amount.

4. If the Ordering Party is in arrears, MAHLE shall (without limiting its other rights or remedies) be entitled to retain or to regain possession of the Delivered Goods until they are fully paid for or to withdraw from the contract.

5. If, at any time after any contract is formed, MAHLE becomes aware of any circumstances that affect the Ordering Party's creditworthiness or ability to pay for the Delivered Goods, or if the Ordering Party defaults in the payment of the purchase price due in respect thereof, MAHLE shall be entitled to demand an advance payment or the provision of appropriate security for such payment within an appropriate period and shall be entitled to refuse performance until any such conditions have been fulfilled.

6. Upon refusal by the Ordering Party to accept such conditions or unsuccessful expiry of the term specified by MAHLE for such acceptance, MAHLE shall be entitled to withdraw from the contract in full or in part and to demand compensation in relation thereto.

IV. Retention of Title

1. MAHLE hereby reserves all rights of ownership of and title to the Delivered Goods until payment has been received in full (in cash or cleared funds) for the Delivered Goods and any other goods that MAHLE has supplied to the Ordering Party.

2. In the event of any breach of contract or other default by the Ordering Party before title to the Delivered Goods passes to the Ordering Party, then, without limiting any other right or remedy that it may have, MAHLE may at any time require the Ordering Party to deliver up all Delivered Goods in its possession that have not been resold, or irrevocably incorporated into another product, and if the Ordering Party fails to do so promptly, enter any premises of the Ordering Party or of any third party where the Delivered Goods are stored in order to recover them.

3. The assertion of such retention of title and seizure of any Delivered Goods by MAHLE shall not be deemed to be withdrawal by MAHLE from the contract.

4. Subject to the terms hereof, the Ordering Party may resell or use the Delivered Goods in the ordinary course of its business (but not otherwise) before MAHLE receives payment for the Delivered Goods. However, if the Ordering Party resells the Delivered Goods before that time: (a) it does so as principal and not as MAHLE's agent; and (b) title to the Delivered Goods shall pass from MAHLE to the Ordering Party immediately before the time at which resale by the Ordering Party occurs.

5. Any processing of or alterations to the Delivered Goods shall always be performed by the Ordering Party for MAHLE. If the Delivered Goods are processed with other goods that do not come from MAHLE, MAHLE shall obtain co-ownership of the new goods to the proportion of the value of the Delivered Goods compared with the other processed goods at the time of processing.

6. If the Delivered Goods are inseparably combined with other goods that do not come from MAHLE, MAHLE shall obtain co-ownership of the combined product to the proportion of the value of the Delivered Goods represents compared with the other combined goods but shall not have any responsibility for any costs or liabilities relating to such combined products.

7. The Ordering Party is not permitted to pledge the Delivered Goods nor to transfer them as security in any way. In the event of seizure or confiscation or any other disposition by any third parties, the Ordering Party must inform MAHLE of this without delay, and provide MAHLE with all information and documents that are necessary to protect their rights. Enforce-

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ment officers or other third parties involved must be informed of MAHLE's ownership.

V. Delivery, Delivery Time

1. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.

2. MAHLE is entitled to provide partial delivery and corresponding invoices insofar as this does not prejudice the use of the Delivered Goods by the Ordering Party, acting reasonably. MAHLE reserves the right to deliver up to 1% more or less than the quantity of Delivered Goods ordered.

3. The term of delivery shall be extended in the event of force majeure or other events outside MAHLE's control (which shall include without limitation any strikes or lock-outs at any MAHLE premises). MAHLE shall inform the Ordering Party of such circumstances as soon as possible. If such events continue for longer than six months, both parties shall be entitled to suspend or cancel any further performance under the contract. MAHLE shall not be obliged to procure any replacement goods and no compensation shall be payable to the Ordering Party by MAHLE in such event.

4. Insofar as MAHLE cannot meet any specified delivery dates for reasons outside their control (including without limitation non-availability of its supply), MAHLE shall inform the Ordering Party of this promptly and state the estimated new delivery date at the same time. If the supply is equally not available within the new term of delivery, MAHLE shall be entitled to withdraw from the contract in full or in part. In such event, MAHLE shall reimburse without delay any payment already made by the Ordering Party for Delivered Goods that are not delivered.

5. If the Ordering Party delays in accepting delivery, fails to cooperate with MAHLE in relation to delivery or if there are any delays in delivery by MAHLE for other reasons caused by the Ordering Party, MAHLE shall be entitled to demand compensation for any resulting loss or damage including additional expenses (e.g. storage fees). MAHLE shall invoice a lump-sum fee totalling 0.5% of the net remuneration (value of the Delivered Goods) per calendar week up to a total of 5% of the net remuneration together with its notice of readiness to deliver the Delivered Goods. However, MAHLE shall not enforce payment of such lump-sum fee to the extent that such amount would exceed actual damages incurred by MAHLE and MAHLE shall be entitled to claim additional compensation in the event that the damages incurred are greater than the lump-sum fee invoiced.

VI. Delay in delivery

1. If MAHLE fails to deliver the Delivered Goods, its liability shall be limited to the costs and expenses incurred by the Ordering Party in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Delivered Goods.

2. MAHLE shall have no liability for any failure to deliver the Delivered Goods or any delay in delivery of the Delivered Goods to the extent that such failure or delay is caused by a force majeure event or by the Ordering Party's failure to provide MAHLE with adequate delivery instructions or any other instructions that are relevant to the supply of the Delivered Goods.

VII. Dispatch, Transfer of Risk, Acceptance

1. Insofar as not otherwise stated in the confirmation of order, delivery is agreed as "FCA – free carrier (MAHLE)" as per Incoterms 2010. This shall also apply to partial deliveries and return deliveries.

2. Transportation and disposable packaging shall (where specified by applicable law or regulation) become the property and responsibility of the Ordering Party and shall not be removed by MAHLE. The Ordering Party shall be obliged to arrange for the disposal of the packaging at their own expense.

VIII. Material Defects Claims by the Ordering Party

1. The Ordering Party shall inspect the Delivered Goods immediately on delivery thereof. The Delivered Goods shall be deemed to be free from defects or damage and in full accordance with any contractual specification and the Ordering Party shall be bound to accept and pay for such Delivered Goods at the time or times specified in the contract unless a written claim is made by the Ordering Party and is received by MAHLE: (i) within three days of delivery in respect of any claim relating to damage, delay or partial loss in transit. (ii) within 28 days of dispatch in respect of any claim relating to non-delivery or (iii) within 28 days of delivery in respect of any claim relating to any other matter.

2. Following any such written claim, MAHLE shall be given an opportunity to inspect the Delivered Goods within a reasonable time following delivery and before any use is made of them and any Delivered Goods subject to any claim must be stored by the Ordering Party free of charge for MAHLE's inspection. MAHLE reserves the right to request, and if so requested the Ordering Party shall provide, a failure report for defective goods that are rejected before a return will be allowed. Where the Ordering Party rejects or purports to reject any Delivered Goods then the relevant provisions of these Terms and Conditions shall apply in respect of any related liability and claims.

3. In the event of the delivery of defective parts, MAHLE shall have the right to choose whether such defective parts will be repaired or replaced. Any statutory rights of MAHLE to refuse subsequent performance shall remain unaffected.

4. In the event of repairs, MAHLE shall bear all costs and expenses required for the purpose of rectifying the defects, in particular any costs of transportation, travel, labour and materials. However, MAHLE shall not be responsible for any increased costs resulting from the Delivered Goods being taken to a place other than the place of performance.

5. The Ordering Party must make the defective parts available immediately if requested to do so by MAHLE.

6. In the event of repeated failures by MAHLE to provide subsequent performance or if a deadline set by the Ordering Party for subsequent performance has expired or ceased to apply, or if such subsequent performance is disproportionate, the Ordering Party shall have the right to withdraw from the contract without penalty or claim a proportionate reduction of the purchase price.

7. MAHLE shall not be liable for any claims by the Ordering Party based on material defects if such defects can be traced back to a breach of operating, servicing and installation instructions, unsuitable or improper processing or use, overloads (e.g. by modifications to increase performance), wrong or careless handling or natural wear and tear as well as any interference with the Delivered Goods by the Ordering Party or by any third parties.

8. The warranty given under this Section VIII is valid for a period of 1 year from the date of delivery and shall apply provided that the Ordering Party has notified MAHLE in writing and returned the Delivered Goods to MAHLE for inspection within a period of 1 year from their delivery date.

9. In the event that there is no material defect found upon inspection or if the material defect is based on a circumstance for which MAHLE is not liable, the Ordering Party shall reimburse MAHLE all costs arising therefrom.

IX. General Limitation of Liability

1. Subject to Section IX (3) below, MAHLE shall not be liable to the Ordering Party or any third party for any liability, claims, obligations, damages, costs, or expenses, including without limitation, any direct, indirect, special, incidental, or consequential damages (including lost profits, business losses, personal property damage, personal injury, and death) arising out of or relating to the sale of the Delivered Goods by MAHLE to the Ordering Party or any related

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services provided by MAHLE by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or in contract, tort (including negligence), breach of statutory or common law duty or otherwise.

2. MAHLE is not liable for, and the Ordering Party assumes full liability for, all personal injury and property damage connected with the handling, transportation, possession, processing, repackaging, further manufacture, or other use or resale of the Delivered Goods, whether the Delivered Goods are used alone or in combination with any other material. Delivered Goods sold by MAHLE are not authorised to be used in life support equipment in which the malfunction of the Delivered Goods can reasonably be expected to result in a situation in which personal injury, death or catastrophic property damage could occur. Any such use by Ordering Party, or its customer, is at the sole risk of the Ordering Party, and the Ordering Party agrees to indemnify and defend MAHLE against and hold MAHLE harmless from all damages and costs arising out of such use or sale.

3. Nothing in these Terms and Conditions shall limit or exclude MAHLE's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) defective products under the Consumer Protection Act 1987; or

(e) any matter in respect of which it would be unlawful for MAHLE to exclude or restrict liability.

4. Subject to Section IX (3), MAHLE's total liability to the Ordering Party in respect of all losses arising under or in connection with any contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not exceed the price of the Delivered Goods.

X. Confidentiality

1. All business or technical information, including without limitation any intellectual property deriving from items or software and other knowledge and experience provided by or originating from MAHLE must be kept confidential from third parties for as long as and to the extent that it has not been provably announced in public or provided in writing by MAHLE for resales by the Ordering Party (in which case it may only be made available to such persons in their own business premises that need such information for their use and who are subject to equivalent confidentiality undertakings). Such information shall remain the sole property of MAHLE and may not be copied or used for business purposes without prior written permission from MAHLE. All information (including all copies and records made where applicable) and items that were lent out must be handed over promptly and fully to MAHLE or destroyed at MAHLE's request. This does not apply to confidential information and copies thereof which are required to be maintained by the Ordering Party pursuant to mandatory applicable laws.

2. MAHLE reserves all rights to all information described in Section X of these Terms and Conditions (including copyrights and the right to apply for industrial property rights such as patents, utility patents, etc.).

XI. Applicable Law and Jurisdiction; Severability

1. Any contract incorporating these Terms and Conditions, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of England and Wales.

2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with any such contract or its subject matter or formation.

3. If any provision or part-provision of these Terms and Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the contract.

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