

## **FRAMO GmbH Terms and Conditions of Sale**

The following terms and conditions of sale apply to the offers and sales of new motor vehicles from the seller (FRAMO GmbH) to the buyer. The terms and conditions of sale are primarily aimed at the buyer who, at the time of the conclusion of the contract, is exercising its commercial or independent professional activity or is a legal entity under public law or a special fund under public law.

### **1. Conclusion of Contract/ Transfer of Rights and Obligations of the Buyer**

- 1.1 The buyer is bound to the order for a maximum of 3 weeks, for commercial vehicles up to 6 weeks. This period is reduced to 10 days (for commercial vehicles to 2 weeks) for vehicles that are available at the seller. The purchase contract is concluded when the seller confirms in writing the acceptance of the order of the specified object of sale within the specified time limits or carries out the delivery. However, the seller is obliged to inform the customer immediately if it does not accept the order.
- 1.2. Additional agreements not contained in the order confirmation have no legally binding effect. Other terms and conditions of the buyer do not apply even if the seller has not expressly objected to them.
- 1.3. Transfers of rights and obligations of the buyer from the purchase contract require the written consent of the seller.

### **2. Prices**

- 2.1. The price of the object of purchase is understood to be ex works without discount and other deductions plus the statutory value added tax (purchase price). Agreed ancillary services (e.g. transfer costs, financing costs) will be charged additionally.
- 2.2 The prices are based on the cost basis given at the time of submission of the offer. In the event of material changes to this basis up until the time the order confirmation is received, the seller reserves the right to adjust the price. A material change is a change of at least 5%. In these cases, the buyer is entitled to a right of withdrawal, which it must exercise within two weeks of receipt of the order confirmation. Changes in the VAT rate entitle both parties to the corresponding price adjustment.
- 2.3. Other buyers (consumers) have to pay the total amount stated in the purchase contract as the purchase price if a delivery time of up to 4 months is agreed or delivery occurs within 4 months. Otherwise, the purchase price changes in the same proportion as the seller's list prices for vehicle, special equipment and transfer costs plus value added tax change until the day of delivery. Increases in the list prices between the written purchase price notice by the seller and the delivery are not calculated if the buyer accepts the vehicle on time. The buyer may withdraw from the contract if

the sum of the purchase price for vehicle and special equipment and the fee for the transfer in the purchase price notice exceed the sum of the prices stated in the order for the same scope by more than 3% - or with agreed delivery time of at least 18 months, if it is by more than 1.5% on average per contract half-year. Withdrawal must be made in writing within 2 weeks of receipt of the purchase price notice.

### **3. Payment**

- 3.1. The purchase price and prices for ancillary services are due upon delivery of the object of purchase and handing over or sending of the invoice for payment.
- 3.2. The buyer can only offset against claims of the seller if the claim of the buyer is undisputed or a legally valid title exists. Exceptions to this are counterclaims of the buyer from the same contractual relationship. The buyer may assert a right of retention only insofar as it is based on the claims arising from the purchase contract.

### **4. Delivery and Delivery Delay**

- 4.1. Delivery dates and delivery periods, which may be agreed as binding or non-binding, must be stated in writing. Delivery periods begin with the conclusion of the contract.
- 4.2. The buyer can request the seller to deliver 6 weeks after exceeding a non-binding delivery date or a non-binding delivery period. This period is reduced to 10 days (for commercial vehicles to 2 weeks) for vehicles that are available at the seller. Upon receipt of the request, the seller is in default. If the buyer is entitled to compensation for damage caused by delay, the latter is limited to a maximum of 5% of the agreed purchase price in the case of slight negligence on the part of the seller.
- 4.3. If the buyer also wishes to withdraw from the contract and/or claim damages instead of performance, it must set the seller a reasonable period for delivery after expiry of the period in question in accordance with paragraph 2, sentence 1 or 2 of this section. Claims for damages instead of performance in the event of slight negligence are excluded.

For other buyers (consumers), the claim for damages is limited to a maximum of 25% of the agreed purchase price instead of the performance in the event of slight negligence.

If delivery is impossible for the seller while it is in default, it is liable with the agreed limitation of liability above. The seller is not liable if the damages would have occurred even if delivery were timely.

- 4.4. If a binding delivery date or a binding delivery period is exceeded, the seller is already in default upon exceeding the delivery date or the delivery period. The rights of

the buyer are then determined according to paragraph 2, sentence 4 and paragraph 3 of this section.

- 4.5. The limitation of liability and disclaimers to this section do not apply to damages resulting from a grossly negligent or intentional breach of obligations of the seller, its legal representative or its vicarious agents as well as injury to life, limb or health.
- 4.6. If the buyer requires any changes in the design or in the scope of delivery during the term of the delivery period, or if it fails to meet its contractual obligations punctually on the due date, the duration of the delivery period is interrupted as a result; any resulting delays in delivery are not the responsibility of the seller. The seller is entitled to partial deliveries.
- 4.7. Force majeure or malfunctions occurring at the seller or its suppliers, which temporarily prevent the seller without fault of its own, from delivering the object of purchase by the agreed date or within the agreed period, change the dates and periods specified in paragraphs 1 to 4 of this section by the duration of the disruption caused by these circumstances. If such disruptions lead to a delay of more than four months, the buyer can withdraw from the contract. Other rights of withdrawal remain unaffected.
- 4.8. Design or shape changes, variations in color and changes in the scope of delivery by the manufacturer remain reserved during the delivery period, provided that the changes or deviations are reasonable for the buyer taking into account the interests of the seller. If the seller or the manufacturer uses signs or numbers to designate the order or the purchased item, no rights can be derived from this alone.

## **5. Acceptance**

- 5.1. The buyer is obliged to accept the object of purchase within 7 days from receipt of the notification of availability.
- 5.2. All risks pass to the buyer upon acceptance of the object of purchase unless otherwise agreed by contract in individual cases.
- 5.3. In the event of non-acceptance or unauthorized refusal of acceptance, the seller may exercise its statutory rights. If the seller demands compensation, this amounts to 15% of the purchase price. The compensation shall be set higher or lower if the seller proves higher damages or the buyer proves that less or no damages have occurred. If the seller does not exercise its right in sentence 1, the seller, without prejudice to its other rights, has the power to freely dispose of the object of purchase and to deliver in its place, within a reasonable period, a similar object of purchase under the terms of the contract.

## 6. Retention of Title

- 6.1. The object of purchase remains the property of the seller until full settlement of the seller's claims arising from the purchase contract. At the request of the buyer, the seller is obliged to waive retention of title if the buyer has fulfilled all claims associated with the object of purchase without any counterclaim and an adequate security exists for the other claims arising from the ongoing business relations.

During the period of retention of title, the seller is entitled to the right to possess the registration certificate part II (vehicle registration).

- 6.2. The retention of title also remains for claims of the seller against the buyer from the current business relationship until the settlement of claims in connection with the purchase. The buyer hereby assigns its claims from the resale of the object of purchase to the seller in the amount of the purchase price agreed with the seller. This assignment applies regardless of whether the purchased item has been resold without or only after processing. The buyer remains authorized to collect the claim even after the assignment. The right of the seller to collect the claim remains unaffected. However, the seller shall not collect the claim as long as the buyer meets its payment obligations, is not in default of payment and, in particular, has not filed an application for insolvency proceedings.
- 6.3. Paragraph 2 does not apply insofar as the buyer is a consumer.
- 6.4. If the buyer does not pay the due purchase price and prices for ancillary services or does not do so in accordance with the contract, the seller may withdraw from the contract and/or, in the event of culpable breach of duty by the buyer, demand compensation instead of performance if it has unsuccessfully set a for the buyer a reasonable deadline for performance, unless the deadline is dispensable according to the legal provisions. At the request of the buy, which can only be expressed immediately after return of the object of purchase, a publicly appointed and sworn expert, e.g. Deutsche Automobil Treuhand GmbH (DAT), shall at the discretion of the buyer determine the usual sales value. The buyer bears the necessary costs of the return and utilization of the object of purchase. Without proof, the recovery costs are 5% of the usual sales value. They are to be set higher or lower if the seller proves higher costs or the buyer proves that lower or no costs were incurred.
- 6.5. As long as the retention of title applies, the buyer may neither dispose of the object of purchase nor grant third parties contractual use of it. In the event of intervention by creditors of the buyer, in particular in the case of seizure of the object of purchase, the buyer must notify the seller by registered letter. The costs of measures to eliminate the intervention, in particular of intervention proceedings, shall be borne by the buyer if the seller cannot collect them from the other party.

During the period of retention of title, the buyer shall, at the seller's request, insure the object of purchase against theft, burglary, fire, liability and damage with the proviso that the seller is entitled to the rights under the insurance contract until the final payment and in that amount. The buyer has the obligation during the period of retention of title to maintain the object of purchase in a proper condition and to carry out any repairs immediately and expertly.

- 6.6. The seller has the right to waive the right of retention of title regulated in this section 6 by means of a written declaration to the buyer. The buyer agrees to the waiver by accepting the next performance and/or delivery of goods by the seller following the exercise of the waiver or by providing a written notice to the seller.

## **7. Liability for Material Defects**

- 7.1. Claims of the buyer due to material defects become statute-barred one year after delivery of the object of purchase. The limitation period for the installed engine, transmission and drive axle(s) is extended to two years from the date of delivery.

Further claims remain unaffected insofar as the seller is legally liable by law or another agreement is reached, in particular in the event of the assumption of a guarantee.

The limitation period in paragraph 1, sentence 1 does not apply to damages that are based on a grossly negligent or intentional violation of obligations of the seller, its legal representative or its vicarious agents, as well as injury to life, limb or health.

- 7.2. Insofar as the buyer is a consumer, claims on the basis of material defects become statute-barred in accordance with the statutory provisions within two years from the delivery of the object of purchase.
- 7.3. If due to statutory provisions the seller has to pay for damages caused by slight negligence, the seller is liable to a limited extent:

The liability exists only in the event of breach of essential contractual obligations such as obligations which the purchase contract aims to impose on the seller according to its content and purpose or obligations whose fulfillment makes the proper execution of the purchase contract possible in the first place and on whose observance the buyer regularly trusts and can trust. This liability is limited to the typical damage foreseeable at the time of the conclusion of the contract. The personal liability of the legal

representatives, vicarious agents and employees of the seller for damages caused by them through slight negligence is excluded.

Paragraph 1, last sentence of this section applies accordingly for the aforementioned limitation of liability and the aforementioned exclusion of liability.

7.4. Irrespective of any fault of the seller, any liability of the seller arising from fraudulent concealment of a defect, from the assumption of a guarantee or a procurement risk, and under the Product Liability Act remains unaffected.

7.5. If the elimination of a defect is to be carried out, the following applies:

a) Claims for elimination of defects can be asserted by the buyer at the seller or at other companies recognized by the manufacturer/importer or seller for the care of the object of purchase; in the latter case, the buyer must inform the seller immediately if the first elimination of the defect was unsuccessful. In the event of verbal assertions of claims, the buyer must be given a written confirmation of the receipt of the assertion.

b) If the object of purchase becomes inoperative because of a defect in quality, the buyer shall turn to the ready-to-operate service recognized by the manufacturer/importer or seller for the maintenance of the object of purchase, which is nearest to the location of the inoperative object of purchase.

c) For the parts installed for the elimination of defects, the buyer can assert claims for material defects up to the expiry of the limitation period to which the object of purchase is subject.

d) Replaced parts become the property of the seller.

7.6. Claims for elimination of defects shall not be affected due to changes in ownership of the object of purchase

## **8. Liability for Other Damages**

8.1. Other claims of the buyer, which are not regulated in section 7 (Liability for Material Defects), become statute-barred during the regular limitation period.

8.2. Liability for late delivery is ultimately regulated in section 4.

8.3. For other claims for damages against the seller, the provisions in section 7 (Liability for Material Defects), paragraph 1 last sentence, 4 and 5 apply accordingly.

## **9. Jurisdiction**

- 9.1. For all present and future claims arising from the business relationship with merchants, including bills of exchange and check claims, the exclusive place of jurisdiction is the place of business of the seller.
- 9.2. The same place of jurisdiction applies if the buyer has no general place of jurisdiction in Germany, relocates its domicile or habitual residence to a foreign country after conclusion of the contract, or its domicile or habitual residence is not known at the time the legal action is brought.
- 9.3. Otherwise, for claims of the seller vis-à-vis another buyer (consumer), its domicile is the place of jurisdiction.

**10. Notice Pursuant to § 36 Consumer Dispute Settlement Act (VSBG)**

The seller will not participate in a dispute resolution procedure before a consumer arbitration board pursuant to VSBG and is not obliged to do so.