



GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY
INTERMOTIVE B.V.

1. General

- 1.1 These general terms and conditions shall apply to all offers made by INTERMOTIVE B.V. (hereinafter to be referred to as: "INTERMOTIVE") and to all agreements, whereby INTERMOTIVE acts as a seller of products and/or services.
- 1.2 These general terms and conditions also apply to future business relations, even if they are not expressly agreed upon in advance.
- 1.3 The applicability of any general terms and conditions used by the other party is expressly rejected.
- 1.4 Any amendments and stipulations from these general terms and conditions shall only be valid if and insofar as confirmed to the other party by INTERMOTIVE in writing.
- 1.5 The language of these general terms and conditions is English, and may be translated into any other language; in case of any differences, however, the English version shall prevail.

2. The agreement

- 2.1 Verbal offers and undertakings shall bind INTERMOTIVE only after and insofar as they have been confirmed by INTERMOTIVE in writing or by means of electronic data communication. All offers made by INTERMOTIVE, in any form whatsoever, shall be valid up to ten (10) days after being made, unless it is explicitly stated otherwise.
- 2.2 An agreement between INTERMOTIVE and the other party shall not be concluded until INTERMOTIVE has confirmed the order in writing.
- 2.3 INTERMOTIVE reserves the right to change prices prior to the moment of delivery in the event of an increase in the price of factors affecting the cost, such as raw (but not limited to) materials and wage costs, in the event of environmental or other – whether or not similar – charges or in the event of governmental measures.



- 2.4 At the request of the other party, INTERMOTIVE will perform any amendments in the agreement requested by the other party, provided that they can reasonably be performed and are requested within a reasonable period after the conclusion of the agreement. INTERMOTIVE has the right to charge extra for such amendments and any amendments may result in an extension of the term of delivery.
- 2.5 If the other party wishes to cancel an order for the delivery of products in whole or in part, it will reach agreement with INTERMOTIVE on such cancellation beforehand. If a request for cancellation is made within six (6) weeks before the scheduled date of delivery, INTERMOTIVE will in any event, if it complies with that request, be entitled to charge 15% of the order price by way of compensation. Also, if the other party wishes to cancel an order for the delivery of tailor-made products or modified products, including accessories specifically ordered for the other party, INTERMOTIVE will in any event be entitled to charge 100% of the conversion costs and accessories.
- 2.6 The other party may not assign the agreement or assign or encumber any of its rights thereunder without the prior written consent of INTERMOTIVE.

3. Delivery

- 3.1 Agreed delivery dates are estimates only and shall not be regarded as firm dates, unless explicitly confirmed as such by INTERMOTIVE in writing.
- 3.2 Unless otherwise agreed in writing, delivery shall be Ex Works (Oud Gastel, the Netherlands) (E.X.W., Incoterms 2010).
- 3.3 The other party shall be required to take delivery of the purchased products at INTERMOTIVE's first request, also prior to the agreed delivery date(s).
- 3.4 INTERMOTIVE shall have the right to make partial deliveries.

4. Retention of title

- 4.1 INTERMOTIVE shall retain title to all the products delivered or to be delivered by it until it has received in full:
- a. payment due by the other party for all products delivered or to be delivered under an agreement as well as work performed or to be performed under such agreement;



- b. claims on the grounds of failure of the other party to comply with such agreement or agreements. The other party shall not have the right to invoke a right of retention with regard to the costs of storage or to set-off these costs against the payment due by it.
- 4.2 The other party shall be entitled to dispose of the products only in the framework of its normal business conduct.
- 4.3 If the other party is in default with regard to the payments referred to in Article 4.1, INTERMOTIVE shall have the right to recover or commission the recovery of the products belonging to it for the other party's account from the place they are located. The other party hereby irrevocably authorises INTERMOTIVE to enter or commission the entry of the rooms used by it or on behalf of the other party. The costs involved and any other damage shall be for the other party's account.

5. Prices and conditions of payment

- 5.1 All prices are E.X.Works (Oud Gastel, the Netherlands), exclusive of VAT (if any) and any other charges or levies imposed by the authorities.
- 5.2 Unless agreed otherwise in writing, payment shall be made within thirty (30) days after the invoice date in the currency indicated on the invoice, by means of a transfer of the amount due to the bank account specified on the invoice. The date of payment shall be the date on which the amount is credited to the bank account.
- 5.3 Payment shall be made without any set-off, discount or deferral.
- 5.4 In the event of late payment, all payment obligations of the other party, regardless whether they have been invoiced by INTERMOTIVE yet, will fall due immediately.
- 5.5 In the event of late payment, the other party shall owe interest on the outstanding amount at the Dutch statutory interest rate increased by 4%.
- 5.6 Payments made by or on behalf of the other party shall be put towards settlement of the out-of-court costs of collection payable by it, the court fees, and the interest payable by it, and then towards the outstanding principal amounts, in chronological order, regardless of any instructions to the contrary from the other party.



- 5.7 The other party may object to the invoice only within the term for payment.
- 5.8 INTERMOTIVE shall at all times be entitled to demand sufficient security or full or partial payment in advance before performing or continuing to perform.
- 5.9 If the other party fails to fulfil one or more of its (payment) obligations, all costs reasonably incurred to obtain satisfaction out of court shall be for its account, in any event including the costs of collection agencies, process servers and attorneys. INTERMOTIVE shall have the right to set the costs at 15% of the outstanding amount with a minimum of € 500. The provisions of this paragraph shall not affect any other rights INTERMOTIVE may have by law or pursuant to these General Terms and Conditions.
- 5.10 The other party shall be required to compensate all costs reasonably incurred by INTERMOTIVE related to a court procedure in which INTERMOTIVE was entirely or predominantly successful. These costs shall in any event include the costs of external experts, process servers, attorneys, etc., also insofar as such costs exceed the relevant amount awarded by the court.

6. Warranty

- 6.1 INTERMOTIVE warrants that the Products are free from defects in material and workmanship and will, under normal use and service, perform its function for a warranty/guarantee period as mentioned in the instructions accompanying the Products. Products which become defective during the warranty period will at INTERMOTIVE's own choice be replaced or repaired, free of charge.
- 6.2 Any warranty claim must be made in writing.
- 6.3 INTERMOTIVE's warranty shall only apply if the Products have been used in accordance with the instructions enclosed therewith. The warranty shall further not apply and shall become void to any defects caused by any reason for which INTERMOTIVE is not responsible, such as but not limited to, inappropriate handling (e.g. overstress, improper use), inappropriate storage, improper training on how to use or as a result of modifications or repairs performed by other persons than INTERMOTIVE's persons or the Distributor.
- 6.4 INTERMOTIVE's warranty is exclusive and in lieu of other warranties expressed or implied, including all implied warranties of merchantability and fitness for any particular purpose or application. INTERMOTIVE shall not be liable for lost profits or goodwill or any other incidental or consequential damages.



7. Complaints

- 7.1 Upon delivery, the other party shall inspect the delivered products to detect any visible defects and deficiencies. Visible defects must be reported to INTERMOTIVE in writing within two (2) days of delivery and under all circumstances before the products are processed or assembled. Invisible defects must be reported to INTERMOTIVE in writing within two (2) days of being detected, but at the latest within two (2) months of delivery. The right to file a complaint will lapse if the defect can be attributed to the other party. This will occur, *inter alia*, if the products are not used in accordance with INTERMOTIVE's instructions set out in the car manual.
- 7.2 If a complaint proves to be founded, INTERMOTIVE will be obliged only to replace or repair the relevant items. If INTERMOTIVE believes that replacement or repair cannot be required from it or is undesirable, INTERMOTIVE may decide to credit or repay the price for the relevant products.
- 7.3 The other party undertakes to observe the instructions and security regulations and recommendations given by INTERMOTIVE and to take all other measures necessary to prevent the occurrence of damage due to possession or use of items delivered. The other party shall indemnify INTERMOTIVE against any claims by third parties in relation to the supplied items.

8. Liability

- 8.1 INTERMOTIVE's liability for damage due to improper performance of the agreement or wrongful act will be limited to the obligation named in Article 6.2 in the event of a defect in the delivered good or shall be limited to the price of the relevant good in other cases, except if and insofar as the damage arises from intentional acts, intentional omissions or gross negligence of INTERMOTIVE or its management.
- 8.2 Except where damage is a consequence of intentional acts, intentional omissions or gross negligence of INTERMOTIVE or its management, INTERMOTIVE will not accept any liability for any advice given to the other party – in connection with deliveries or otherwise – including advice regarding the quality, composition or operation of the products (alone or in combination with other products). INTERMOTIVE will have a best-efforts obligation only to give proper advice.



- 8.3 INTERMOTIVE will never be liable for any indirect or consequential damage, including at any rate damage to the business, damage due to delay, damage due to business interruption and/or loss of profits of the other party.
- 8.4 Any claim for reimbursement of damage and/or repair of the item and/or the replacement of the Products and/or delivery of missing products, for any reason whatsoever, as well as any right to dissolution of the agreement will lapse at the earliest of the following moments: (a) late reporting; or (b) at the end of the warranty period, but under all circumstances after six (6) months after delivery.
- 8.5 INTERMOTIVE stipulates that all legal and contractual defenses available to it to exclude its own liability vis-à-vis the other party will extend to INTERMOTIVE's employees and other parties for which it may be held liable under the law.

9. Dissolution

- 9.1 INTERMOTIVE may at its discretion decide to dissolve the agreement in whole or in part without any obligation to pay damages and without prejudice to any other rights INTERMOTIVE may have by law or under the agreement, or may suspend the (further) performance of the agreement, if one or more of the following events occur:
- a. if the other party does not fulfil, or does not properly or timely fulfil any of its obligations that may arise from the agreement, and fails to remedy such breach, if it is capable of being remedied, within thirty (30) days after INTERMOTIVE's written notification specifying the breach;
 - b. if the other party is declared bankrupt, granted a suspension of payments or placed under compulsory guardianship, or
 - c. if the other party's business is discontinued or liquidated.
- In all those cases, INTERMOTIVE will also be entitled to demand immediate payment of the amounts to which it is entitled.

10. Force majeure

- 10.1 If INTERMOTIVE is temporarily or permanently unable to properly perform all or part of its obligations due to one or more circumstances beyond its control, including the circumstances listed in Article 9.1, INTERMOTIVE will be entitled to suspend the agreement and will have the right to deliver the Products to the other party in the way it deems fit.



- 10.2 Circumstances that are at any rate beyond INTERMOTIVE's control include the following: conduct of persons whom INTERMOTIVE uses to perform its obligations, unless its management is blamed for intentional acts, intentional omissions or gross negligence; the exercise of one or more rights by a third party vis-à-vis the other party with respect to improper performance of an agreement entered into between the other party and that party in regard of the products delivered by INTERMOTIVE; strike; lock-out; ban on import, export or transit; transport problems; non-performance of suppliers; disruption of the production process; natural and/or nuclear disasters; war and/or threat of war; fire; floods and governmental measures.
- 10.3 If the other party does not cooperate after being granted a term of seven (7) days by INTERMOTIVE, INTERMOTIVE will be entitled to terminate the agreement with immediate effect.

11. Storage

- 11.1 If for whatever reason the other party cannot take receipt of the products at the time of delivery, INTERMOTIVE shall store and secure the products at the other party's request until they are delivered to the other party. The storage costs shall be for the account of the other party. Notwithstanding any other rights under these GTC, or by contract or law.
- 11.2 Storage shall take place solely at the risk of the owner of the product.

12. Governing law; dispute resolution

- 12.1 All relations between INTERMOTIVE and the other party will be governed by the law of The Netherlands. The United Nations Convention on Contracts for the International Sale of Products (1980) will not apply.
- 12.2 The following dispute resolution clause shall apply:
- If the other party is established in a state which has ratified the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York 1 June 1958) (hereinafter: "NYC 1958"), all disputes arising in connection with the agreement, or further agreements resulting therefrom, shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The arbitral tribunal shall be composed of three arbitrators, unless the parties agree that the arbitral tribunal shall be composed of one arbitrator. The arbitral tribunal shall be appointed according to the NAI



list procedure. The place of arbitration shall be Rotterdam, the Netherlands. The proceedings shall be conducted in the English language. Consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure and Article 39 of the Arbitration Rules of the Netherlands Arbitration Institute, is excluded.

- If the other party is established in a state, which has not ratified the NYC 1958, but is established in a state that has ratified the OHADA Treaty, all disputes arising in connection with the agreement, or further agreements resulting therefrom, shall be settled in accordance with the CCJA Arbitration Rules. The arbitral tribunal shall be composed of three arbitrators, unless the parties agree that the arbitral tribunal shall be composed of one arbitrator. The arbitral tribunal shall be appointed as follows: each party shall appoint one arbitrator and these two arbitrators shall appoint the third arbitrator (chairman). The place of arbitration shall be Abijan, Côte d'Ivoire. The arbitration shall take place in the English language.
- If the party is established in a state that has neither ratified the NYC 1958 or the OHADA Treaty (for instance if the party is established in Sierra Leone), unless otherwise agreed in writing, all disputes arising in connection with the agreement, or further agreements resulting therefrom, shall be settled in accordance with the Commercial and Admiralty Court Rules 2010 from the Fast Track Commercial Court in Sierra Leone. The arbitral tribunal shall be composed of three arbitrators, unless the parties agree that the arbitral tribunal shall be composed of one arbitrator. The arbitral tribunal shall be appointed as follows: each party shall appoint one arbitrator and these two arbitrators shall appoint the third arbitrator (chairman). The place of arbitration shall be Freetown, Sierra Leone. The arbitration shall take place in the English language.