Terms and Conditions for the sale of used all-terrain vehicles and used parts for use exclusively in relation to companies within the meaning of section 310 ((1) of the BGB; 5/2025

I. General

1.1 The following Terms and Conditions shall apply to the sale of used all-terrain vehicles and/or used parts for all-terrain vehicles, including attachments and chains, as well as to all related deliveries and/or services provided by us to the buyer within the scope of this order or further follow-up orders. Any General Terms and Conditions of the buyer to the contrary shall only apply if expressly confirmed by us in writing.

1.2 The buyer may only assign claims arising out of contracts concluded with us, or have such claims redeemed by third parties, with our prior written approval, as long as the buyer's interests are not unreasonably impaired thereby. Partial or multiple assignments shall always require our prior written approval. Furthermore, assignments of any kind shall always require our prior written approval if the order is based on a credit or installment transaction.

1.3 A written notice sent to the latest address of the buyer known to us shall be sufficient for the effectiveness of any notification, demand, reminder, or other communication on our part in connection with this contract.

1.4 The contracting parties are entitled to use digital signatures by the vehicle handing over.

1.5 These General Terms and Conditions are drawn up in both an English and a German language version. Should difficulties of interpretation arise, the German language version shall prevail.

1.6 For repairs not covered by our liability for quality defects and defects of title, our General Terms and Conditions for Repairs, in the version dated September 18, 2019, shall apply. Unless the buyer objects within one month after having been informed thereof, any later version shall form a part of the contract.

II. Signing and Contents of the Contract

2.1 Offers made by us are non-binding and constitute an invitation to the buyer to place an order with us.

2.2 An order placed by the buyer constitutes a binding offer which we are free to accept within four weeks of receipt thereof by way of written order confirmation. The agreement takes effect upon receipt by the buyer of such order confirmation.

2.3 To the extent that nothing to the contrary is agreed post-contract, any quality descriptions or supplementary agreements must be in writing.

2.4 Any oral or written orders and/or extensions of orders shall only be valid if confirmed by us in writing.

2.5 Unless an express written quality agreement in accordance with section 2.2 or section 2.3 hereof has been made, any information on the delivery, appearance, capacity, measurements and weights, fuel consumption, operating expenses, etc. of the goods given in any specifications, flyers or other brochures valid at the time of signing of the contract shall only be of a preparatory and non-binding nature.

2.6 In so far as, after the signing of a contract, it turns out that the agreed terms of delivery and/or the financing arrangements cannot be complied with for reasons which we could not foresee and which we are not responsible for, we shall be entitled to withdraw from this contract up to two weeks after its signing. We shall be obliged to inform the buyer immediately in writing of the occurrence of such reason.

2.7 Unless provided otherwise, the INCOTERMS 2010 – including any amendments that are effective at the time of the formation of the contract – shall apply with regard to the interpretation of customary trade terms.

III. Prices

The price of the order is ex works, without any cash discounts and plus VAT. Any additional services agreed (such as transportation costs) shall be charged additionally.

IV. Payment and Default in Payment

4.1 The purchase price and any prices for other deliveries and services shall be payable (plus VAT (turnover tax)) upon delivery of the goods, but at the latest within two weeks of receipt of the notice of availability.

Payments are to be made by bank transfer. The receipt of the money on our account is decisive for the timeliness of the payment.

We cannot accept cash payments.ecks, bills and other means of payment, in particular assignments of receivables of any kind, shall only be accepted by us as conditional payment.

4.2 In so far as services are effected with a view to performance, we shall be entitled, but not obliged, to pursue the realization of such services, or the enforcement of any resulting claims against third parties respectively, at the buyer's expense. The buyer shall make an adequate advance payment for this.

4.3 Where an installment sale has been agreed on, the entire residual debt shall, regardless of the maturity of any bills, become immediately due for payment if the buyer refuses to make further payments, or is in default in payment of an installment for more than 14 days, or insolvency proceedings have been filed for in relation to his/her assets.

4.4 Our claims may only be offset by the buyer against counterclaims which are uncontested or have become res judicata. The buyer may only exercise a right of retention in so far as such right is based on the same contractual relationship and, in case of defective performance on our part, only to the extent that the retained amount does not materially exceed the costs of the rectification of the defect.

4.5 If either of the contracting parties discontinues payments, or if insolvency proceedings or out-of-court composition proceedings are opened, the other contracting party shall be entitled to withdraw from the contract with regard to that part thereof which has not been fulfilled.

4.6 If there are several unpaid claims to us from the buyer and if payments of the buyer are not paid for a certain claim, then we are entitled to define for which of the unpaid claims the payment was made.

4.7 We shall be entitled to charge default interest at a rate of 9 percentage points above the current base rate as per section 247 of the *Bürgerliches Gesetzbuch* (BGB – German Civil Code) and to withhold additional goods and services until the settlement of all invoices due. VAT (turnover tax) accrued (if any) shall be borne by the buyer. We reserve the right to provide evidence of greater damage.

4.8 By making the order, the buyer confirms his ability to pay or his credit worthiness. If there is good reason to doubt the ability of the buyer to pay or their credit worthiness, e.g. slow or late payment or a protested check, then we are entitled to request security payments or payment in cash as and when the contract is performed. If the buyer does not meet this request within an appropriate period set for them, then we are entitled to withdraw from the as yet unfulfilled part of the contract or withhold our deliveries until receipt of the payments. This period is unnecessary if the buyer is evidently not in a position to make security payment.

4.9 The dates for payment shall not change even if there are delays to the delivery for which we are not at fault.

4.10 We are entitled to request an advance payment upon conclusion of the contract. Interest will not be paid on this.

4.11 In so far as we ourselves are not the consignor, foreign customers must themselves arrange for the export certificate required to obtain exemption from turnover tax and must send it to us. If a foreign customer does not furnish us with an export certificate, he or she must pay the VAT (turnover tax) to us in the same way as domestic customers.

4.12 Our payment claims fall under the statute of limitations of 5 years unless the law stipulates a longer period. The beginning of the statute of limitations depends on Section 199 German Civil Code.

V. Delivery, Delays in Delivery, Impossibility

5.1 Delivery dates shall only be binding if agreed on in writing and expressly declared to be binding by us.

5.2 If the volume of the order and/or of the work changes or increases as against the original contract at the buyer's request and/or due to technical circumstances which could not have been foreseen by a diligent technical examination on signing of the contract, and if this, as a consequence, results in delay in delivery, then the delivery date or delivery period agreed on shall be deferred for that period of time required, from an expert's point of view, for the due completion of such change or increase.

5.3 If a delivery date or a delivery period agreed on cannot be complied with as a result of force majeure, riots, strikes, lock-outs or material operational stoppages beyond our control, in particular the non-appearance or non-arrival of skilled personnel or supplies, then the period of such delay shall be added to the original delivery period.

5.4 If a non-binding delivery date or delivery period is exceeded by more than two weeks (or in case of extensive preparatory work, by more than four weeks), then the buyer may demand from us in writing the performance of the order within a further two weeks of receipt of such demand. We shall not be in default until the expiry of such additional period.

5.5 In so far as this is reasonable, we shall be obliged to inform the buyer of any delays as soon as possible.

5.6 Our liability for purely default-induced losses incurred by the buyer (within the meaning of sections 280 and 286 of the BGB) shall be limited to typical damages of up to 0.5% of the purchase price for each full week of default and up to a maximum amount of 5% of the purchase price, unless the buyer can establish that greater damage was foreseeable and has actually occurred. We may remedy claims for default-induced losses by making available a substitute vehicle (which should, so far as possible, be equivalent). To this extent, we shall have the option to either make available one of our own vehicles or to bear 90% of the costs of the actual use of an equivalent hire vehicle.

5.7 Claims for damages for non-performance due to the buyer in cases in which we are in default of performance or in cases of impossibility of performance for which we are responsible shall be limited to typical damages of up to 10% of the purchase price, unless the buyer can establish that greater damage was foreseeable and has actually occurred.

5.8 We are liable in accordance with the legal provisions where the underlying sales contract is a fixed-date transaction within the meaning of section 376 of the HGB (*Handelsgesetzbuch* – German Commercial Code). We are also liable in accordance with the legal provisions if the buyer is entitled to claim that his/her interest in the further performance of the contract has ceased to exist as a result of a delay in delivery for which we are responsible. Furthermore, we are liable in accordance with the legal provisions if the delay in delivery for which we are responsible is due to a culpable breach of an essential contractual obligation (an obligation whose fulfillment is essential for the due and proper implementation of the contract and whose fulfillment the other contracting party may rely on as a matter of course). However, in the cases mentioned above, the liability to pay damages is limited to the foreseeable damages which typically occur.

5.9 The above-mentioned limitations on liability do not apply in cases of malice aforethought or gross negligence or in cases of injury to life, body or health by us or our legal representative or vicarious agents. The buyer's right to withdraw from the contract shall remain unaffected.

5.10 We reserve the right to make technical changes during the delivery period, in so far as the goods is not materially altered thereby in respect of its ordinary use, or the use designated for it in the contract, and such changes are reasonable for the buyer. We shall, however, not be obliged to carry out such changes to vehicles which have already been delivered.

VI. Place of Performance, Acceptance, Transfer of Risk

6.1 The place of performance for all present and future claims arising under this business relationship shall be Laupheim. In so far as any claims are based on transactions concluded with one of our branch offices, the place of performance shall be the registered office of such branch office.

6.2 The risk of loss or damage to the goods passes to the buyer upon the notification of the completion of the goods. If it has been agreed that the goods are to be dispatched, then the risk is passed to the buyer upon sending the goods to the transport company. Unless an arrangement to the contrary has been made, we specify the means of dispatch and transport as well as the type and scope of the packaging.

6.3 If the goods are damaged or lost during the transport, then the buyer must immediately request a stock-take and inform us about it. The buyer must make claims arising from any transport damage to the carrier without delay.

6.4 Carriage expenses paid by us shall only be deemed to be an advance to the buyer. Unless the delivery is delayed and we are at fault, and we have therefore specified a faster dispatch type ourselves, additional costs for faster deliveries requested by the buyer shall be borne by the buyer even if in individual cases we have agreed to bear the carriage expenses.

6.5 We are only responsible for concluding insurance policies if this is specifically requested in writing by the buyer and only to the extent asked for and at the buyer's expense.

6.6 Within two weeks of receipt of our notice of availability, the buyer shall be entitled to inspect the goods at the agreed place of acceptance and the buyer shall be obliged to accept the goods within that period.

6.7 Acceptance within the meaning of Section 433 (2) of the BGB is the main mutual obligation under this contract. If the buyer is in default with his/her obligation to accept the goods, then we shall also be entitled to the rights granted by sections 280 ff and 323 ff of the BGB.

6.8 We shall be entitled to demand damages at the flat-rate amount of 15% of the purchase price. Such damages shall be higher if we can prove greater damage and lower if the buyer can provide proof of less damage, or no damage at all, respectively.

VII. Retention of Title

7.1 Until the claims due to us pursuant to the sales contract have been settled, the title to the goods remains with us. Such retention of title also continues to exist for any and all claims against the buyer which we acquire subsequently in connection with the goods, e. g. on the basis of repairs and/or the delivery of space parts. The retention of title also applies to such claims against the buyer which arise under our ongoing business relations. If the value of the security granted exceeds the value of our claims by more than 10%, we are obliged at the request of the buyer and at our reasonable discretion to reassign the security to the extent that the security limit has been exceeded.

7.2 At the buyer's request, we are obliged to waive the retention of title if the buyer has satisfied all claims in connection with the goods and if the other claims arising under the current business relationship are adequately secured by other means.

7.3 During the period for which title is retained, the buyer shall be entitled to possess and use the goods so long as he/she complies with his/her obligations under the retention of title in accordance with the following provisions of this section and provided that he/she is not in default of payment. If the buyer acts in a way that breaches the contract, particularly in case of nonpayment, we have the right to repossess the goods after an appropriate deadline has been set. The contract is rescinded if we repossess the goods. After written notice of an appropriate deadline has been given, we can realize the value of the goods to the maximum extent possible by private sale and credit the realization proceeds against the purchase price. If we demand the return of the goods, the buyer shall, excluding any rights of retention, (unless such are based on the sales contract), be obliged to return the goods to us immediately. When the goods are repossessed, we have the right to have the estimated price assessed by a publicly authorized and sworn expert appointed by us. We have the right to set off the goods at this estimated price. All costs of the repossession and the sale of the goods shall be borne by the buyer. We are entitled to calculate the costs of realization on a flat-rate basis at 10% of the proceeds of disposal inclusive of turnover tax. If we can provide proof of higher costs, or the buyer of lower cost, then this higher or lower amount shall be used. After deduction of the costs and other claims in connection with the order, the proceeds shall be credited to the buyer.

7.4.1 So long as a retention of title exists, any change to, sale, pledge, transfer by way of security, rental, or other assignment of the goods that impairs our security, and any alteration to them, shall only be permissible with our prior written consent.

7.4.2 If the buyer acquires the object of sale for the purpose of reselling it and we are aware of this, he or she is entitled to do this within the context of a normal business transaction, provided he or she is not in default. As soon as the sales contract has been concluded with us, the buyer assigns the receivables he or she is entitled to from his or her purchase under the sale or arising for any other legal reason amount to us in the amount of the invoice value of the object of sale supplied by us. This applies even in the case of an unauthorized sale.
The right of resale and authority to collect receivables assigned cease to apply when payments are discontinued, when insolvency proceedings or out-of-court composition proceedings are commenced or when checks or bills are protested.
In such instances, the buyer is obliged to account to us for the products supplied that are subject to reservation of title and for receivables assigned immediately and without being requested to do so.
Separate accounts should be kept for amounts which buyers have collected in relation to assigned receivables until such time as these amounts are transferred to ourselves in order to prevent them being off-set or counted towards debtor accounts.

7.5 If third parties access the goods and, in particular if the goods are attached or if a workshop exercises a contractor's lien, then the buyer must immediately inform us thereof in writing and inform such third party of our retention of title without delay. The buyer shall bear all costs necessary to terminate such third-party seizure and to return the goods, in so far as such costs cannot be collected from third parties.

7.6 The buyer must immediately take out a comprehensive vehicle insurance policy, including an adequate excess, for the duration of the retention of title, with the provision that we shall be entitled to the rights under the insurance contract. The buyer must ensure that the insurer provides a confirmation of cover prior to the payment of the initial premium. If the buyer does not fulfill this obligation despite a written reminder, then we may take out the comprehensive vehicle insurance ourselves at the buyer's expense, disburse the premium amounts and collect these as part of the claim under the sales contract. Unless agreed otherwise, the benefits from the comprehensive vehicle insurance shall be used in their entirety for repairing the goods. If, in cases of substantial damage, we decide not to effect a repair, then the insurance benefits shall be used for the redemption of the purchase price, the costs of additional services and the costs disbursed by us.

7.7 For the duration of the retention of title, the buyer shall be obliged to keep the goods in good order and to have all maintenance work designated by us, as well as all necessary repairs, carried out immediately by us (branch establishment or subsidiary) or by a workshop accredited by us for the care of the goods (authorized repair shop) (apart from cases of emergency).

VIII. Liability for Quality Defects and Defect of Title

8.1 Unless otherwise agreed on an individual basis, the buyer's rights resulting from a defect in the quality of the used all-terain vehicle or used parts for all-terrain vehicles is excluded. This exclusion does not apply to claims for compensation resulting from injury to life, body or health and for compensation for other damage due to a breach of obligation involving malice aforethought or gross negligence on our part. A breach of oligation by one of our legal representatives or vicarious agents is the equivalent of a breach of obligation by us. Any claims for damages asserted by the buyer based on a culpable breach of an essential contractual obligation (an obligation whose fulfillment is essential for the due and proper performance of the contract and whose fulfillment the other contracting party may rely on as a matter of course) shall also be exempted from the above exclusion of liability. In the case of a slightly negligent breach of material contractual obligations, however, our liability shall be limited to the damage typically foreseeable at the time of conclusion of the contract. We guarantee that we have no knowledge of hidden defects. The buyer has inspected the goods and purchases them in their present condition, which is a consequence of their age.

8.2 If a sale of used all-terrain vehicles or used parts therefore is pertinent to the sale of new parts, or if work is performed, then the following regulations shall apply to such new parts and services:

a) If we do not receive written notice of obvious defects within twelve working days of acceptance of the vehicle or if a defect of the new parts sold becomes apparent later and this is not notified in writing immediately after the defect is discovered, the vehicle is considered to be approved.

b) In the case of material quality defects and defects of title, the buyer can only demand the rectification of the defect, whereby we are entitled to make repairs three times. If the type of defect or other circumstances mean that the rectification cannot be taken to have failed as a result, and if this can reasonably be expected of the other party to the contract, we are entitled to perform further repairs.

c) The aforementioned claims are subject to a time limit of twelve months from delivery of the new parts or from acceptance of the work.

IX. Liability

Notwithstanding the specific provisions governing default impossibility (V) and liability for quality defects and defects of title (VIII) above, we shall only be liable for damages culpably caused by us in accordance with the following provisions:

9.1 If our obligation to pay damage is due only to a slightly negligent reach of non-essential subsidiary obligations, we will be exempt from our obligation to pay damages, as will our legal representatives or vicarious agents, except in cases of injury to life, body or health.

9.2 In so far as we are ourselves liable for damage to the goods in cases of slight negligence, the compensation shall be limited to repair free of charge. If this is not possible or if it would incur disproportionately high costs, then the replacement value as at the date of the damage shall be refunded.

9.3 Exclusions of liability shall not apply with regard to damages for which we have to accept responsibility pursuant to the *Produkthaftungsgesetz* (German Product Liability Act) or because of the assignment of particular risks (e.g. pursuant to section 444 of the BGB).

9.4 In order to comply with his/her obligation to minimize damage, the buyer shall immediately provide written notification of possible damage.

X. For Vehicles with a Telematics Data System Only

10.1 Vehicles equipped with a telematics system
Vehicles fitted with a telematics system can transmit vehicle data to Kässbohrer Geländefahrzeug AG ("KGF") via mobile network or Wi-Fi. This data transmission enables KGF to provide remote diagnostics and other digital services for the respective vehicle ("PistenBully") as part of its customer service. The aim is to allow for faster fault diagnosis, early identification of maintenance requirements, and the minimisation of downtime and maintenance costs.

10.2 Scope of Data Collection
The following categories of data are collected via the telematics system:

- Machine master data (e.g. model, type, machine number)
- Operating and performance data of the machine (e.g. fuel consumption, engine speed, speed)
- Movement data (e.g. location, direction of travel, route)
- Service and maintenance data
- Environmental information
- Usage and connectivity data (e.g. SIM status, connectivity status)
- Technical protocol and documentation data

The data is collected directly via the vehicle's CAN bus and transmitted to a cloud server via an encrypted connection.

10.3 Data Processing and Use
KGF is entitled to process and use the collected vehicle data for the following purposes:

- Condition monitoring of the vehicle
- Performing remote diagnostics, maintenance, and repair measures
- Analysis of vehicle performance and operating conditions
- Identification of service requirements
- Improvement and further development of products, functions, and technologies
- Creation of personalised offers and marketing or sales activities for its own products and services

10.4 Data Access and Disclosure
Access to the vehicle data is restricted to authorised KGF personnel and authorised dealers or service providers, insofar as this is necessary to fulfil the above-mentioned purposes. Disclosure shall take place exclusively in accordance with applicable data protection laws and only to:

- Internal departments of KGF (particularly service and product development)
- Contracted dealers or service providers acting on behalf of KGF
- KGF group companies for the fulfilment of technical or contractual purposes

10.5 Anonymisation and Data Protection
There is no linking of telematics data with personal identification or contact data. Vehicle data is collected and processed in anonymised form unless another legal basis exists. Processing is carried out in compliance with the relevant data protection regulations, particularly the General Data Protection Regulation (GDPR).

10.6 Data Storage and Deletion
Vehicle data is stored in a secure cloud environment. KGF undertakes to delete or anonymise the data without delay at the request of the vehicle owner or fleet operator, or upon expiry of legal or contractual retention periods.

10.7 Consent
By using the vehicle and activating the telematics functions, the customer expressly agrees to the collection, processing, use, and storage of the vehicle data in accordance with this clause.

10.8 Operator's Duty to Obtain Consent from Drivers
KGF points out that the operator must obtain a declaration of consent from its drivers in advance, as the use of the telematics solution involves the storage of vehicle data that may be attributable to a specific driver. The operator shall indemnify KGF against any claims arising from the failure to obtain or the incorrect obtaining of such driver consent. This includes compensation claims, fines, or other legal consequences.

XI. Final Provisions

11.1 These Terms and Conditions are governed by German law. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.

11.2 The exclusive place of jurisdiction for all present and future claims arising under this business relationship shall be Ulm. We shall, however, also be entitled to assert our claims against the supplier, at our option, before the court competent in the supplier's registered office or before the courts which have jurisdiction over the registered office of any of our branch offices if the claims relate to the business relationship with such branch office.

11.3 If individual parts of these Terms and Conditions are legally ineffective, the effectiveness of the remaining provisions shall not be thereby affected. The contractual partners shall endeavour to replace the ineffective clause with another clause which is as close as possible to the financial purpose and legal meaning of the original formulation and is in accordance with the relevant legal regulation.

11.4 We collect and process data in accordance with the EU General Data Protection Regulation and the Federal Data Protection Act.