

General Terms and Conditions of Sale and Delivery

1. Validity

1) Offers, deliveries and performances by **Spheros GmbH, Gilching, or any associated companies as per §§ 15 ff of the German Company Law (Aktiengesetz) (hereinafter uniformly referred to as "Spheros")** shall be made exclusively on the basis of these General Terms and Conditions of Sale and Delivery. These Terms and Conditions shall also apply to all future business relations, even if their application is not expressly agreed upon. These conditions are deemed to be accepted at the latest upon acceptance of the delivery of goods and performances. General terms and conditions of the Buyer only apply as long as they are consistent with these Terms and Conditions of Sale and Delivery. Deviating terms and conditions of the Buyer do not apply, even in the case where Spheros does not expressly object to these.

2) Terms and conditions deviating from these General Terms and Conditions of Sale and Delivery will only apply if Spheros has given its written consent.

2. Offer and conclusion of a Contract

1) Offers submitted by Spheros are subject to change without notice unless Spheros expressly indicates in writing that they are binding. Notices of acceptance as well as orders are not effective until confirmed by Spheros in writing. The same applies to amendments and additions to an order.

2) Drawings, illustrations, measurements, weights and other performances are only binding if this is expressly agreed upon in writing by the parties.

3. Prices

1) Unless otherwise agreed, Spheros abides by the offered prices within 30 days from the date of the respective offer. The prices which are quoted in the price list as amended from time to time shall be decisive.

2) Prices are ex works, if not agreed otherwise. Costs of delivery by a carrier chosen by Spheros, including packaging, will be paid by the buyer. If the parties agree upon the return of the packaging, the Buyer has to return it to the supplier. Until the return of the packaging, the Buyer is liable for accidental loss or deterioration of the packaging.

4. Passing of risk

The risk passes to the Buyer at the latest with delivery of the goods to the forwarding agent or any other persons carrying out transportation. The risk also passes to the Buyer if, at the Buyer's request, goods are stored by Spheros.

5. Warranty and liability

1) As far as delivery has been executed in business dealings, the Buyer is obligated to inspect the delivered goods immediately upon receipt. The Buyer shall give written notice of any defects in quality and in quantity not later than 8 days after receipt of the goods. Any defects that cannot be detected within such period, even upon careful examination, shall be reported to Spheros in writing immediately upon their discovery, in any case within the limitation period.

2) To the extent that a defect of the goods is present, Spheros shall, at its option, be obliged and entitled to subsequent performance or substitute delivery of defective parts free of charge. The return of the defective goods has to be made carriage free. In case of any defect, Spheros has to pay the costs of the cheapest return to the Buyer. If subsequent performance or substitute delivery fails twice for reasons the Buyer is not responsible, the Buyer shall be able to demand rescission of the contract or reduction of the purchase price subject to the requirements of the legal provisions. Subsequent performance or substitute delivery is carried out without acknowledgment of any legal obligation and does not interrupt the limitation period for claims of defects.

3) The warranty period for claims based on defects for Spheros heating and roof-top air-conditioning systems as well as Spheros spares for these systems shall be 24 months. The warranty period starts with the day of installation of the goods and the initial registration of the vehicle in which the initial installation is made, respectively. The warranty period ends at the latest 36 months after delivery of the goods.

4) When giving notice of a claim based on defects, the warranty card of the service station of installation has to be completed and sent back to Spheros along with the rejected goods. Furthermore, a copy of the warranty card (control card) has to be sent back to Spheros immediately after installation. At Spheros's discretion, irrespective of these warranty conditions and without the acknowledgment of a legal obligation, Spheros may pay for installation and removal costs within Spheros's standard time. Payment of these costs requires that installation or removal has been carried out by Spheros or a service station accepted by Spheros.

5) Any liability for damages caused by wear and tear is excluded, unless they can be attributed to the negligence of Spheros. This applies in particular for glow igniters, temperature fuses or their fuse links, carbon brushes, inappropriate or incorrect usage, incorrect storage, non-compliance with installation and operating instructions, incorrect or careless treatment, inappropriate resources, climatic or any other impacts. Liability is excluded for defects that have been caused by constructional faults or by the choice of inappropriate material, in the case where the Buyer, despite Spheros' previous advice, has specified the construction or the material.

6) Subject to the provisions in paragraph 6, any further claims based on defect are excluded.

7) A guarantee shall only be considered to have been granted if declared explicitly and in writing.

6. Limitation of liability

6.1 Spheros is liable for damages, irrespective of their legal basis, -if:

- a) Spheros negligently or wilfully breaches an essential contractual obligation (cardinal obligation); or**
- b) Spheros caused damages grossly negligently or wilfully; or**
- c) Spheros has given a guarantee.**

6.2 In the following cases, Spheros's liability is limited to typical, foreseeable damages:

- a) In case of a breach of an essential contractual obligation (cardinal obligations), which has not been caused grossly negligently or intentionally;**
- b) In case of a breach of any other duties by employees or any other representatives of Spheros who do not represent an organ of Spheros and are not an executive employee of Spheros;**
and
- c) In case a guarantee has been given, insofar as there has not been given a guarantee as to quality and characteristics of material (Beschaffheitsgarantie).**

6.3 In cases of paragraph 6.2, Spheros is not liable for any collateral damages, consequential damages and loss of profit.

6.4 Spheros's liability according to German product liability law for the injury of life, body and health, as well as for fraudulent concealment of a defect, or a guarantee by Spheros as to quality and characteristics of material, will remain unaffected.

6.5 Paragraphs 6.1 to 6.4 are also valid if goods are only described by category.

6.6 Paragraphs 6.1 to 6.5 are also valid for any claims for damages by the Buyer against employees or other representatives of Spheros.

7. Delivery time

1) In order to be legally binding, the agreement of delivery dates and delivery terms must be made in writing. If the delivery is delayed due to reasons for which the Buyer is responsible or due to any other reasons beyond Spheros's control, the agreed delivery time or the agreed delivery date shall be extended accordingly.

2) Delivery dates are considered to be observed if, prior to expiration of the delivery term, goods have left the factory.

3) In the event of default for late delivery, after the expiration of an adequate grace period of at least two weeks, the Buyer is entitled to rescind the contract and to demand repayment of any pre-payment.

8. Retention of title

- 1) The goods delivered by Spheros shall remain under the ownership of Spheros until the fulfilment of all claims to which Spheros is entitled to vis-à-vis the Buyer.**
- 2) If Spheros's ownership expires due to combination, commingling or processing, the Buyer transfers to Spheros upon signing of the respective delivery contract all claims for return against third parties as well as his or her rights of (co-)ownership with regard to the manufactured goods. The Buyer shall keep Spheros's ownership in safe custody with professional diligence.**
- 3) The Buyer is not entitled to pledge goods subject to the above retention of title to a third party nor to assign them as security. The Buyer may resell goods subject to the retention of title, only in the course of his or her regular business, if the Buyer arranges with his or her customers for a reservation of title. The Buyer hereby already assigns to the Seller by way of security to the full extent all claims resulting from the resale or any other legal reason with regard to the goods subject to the retention of title. Also after the assignment, the Buyer is, subject to revocation, entitled to collect the claim himself or herself. Spheros will only revoke this entitlement if the Buyer does not fulfil his or her payment obligations.**
- 4) If third parties have access to the goods subject to retention of title, the Buyer will point out that these goods are in the ownership of Spheros and inform Spheros immediately. The Buyer shall pay for costs and damages incurred in connection thereof.**
- 5) If the Buyer acts contrary to the terms of the agreement, in particular in the event of a suspension of payment or an application for opening of insolvency proceedings, Spheros is entitled to take back the goods subject to retention of title or mark them and, for these purposes, to enter the Buyer's premises.**
- 6) If the value of the securities exceeds Spheros's claims by more than 20%, Spheros shall, upon the Buyer's request, release collateral of Spheros's choice.**

9. Terms of payment

- 1) Unless otherwise agreed, invoices of Spheros have to be paid at the latest within 30 days of the invoice date and delivery. Without any further demand for payment the Buyer is in default of payment. In the event of default for late payment, Spheros is entitled to interest of 8 percentage points above the respective base interest rate of the German Federal Bank (§ 247 of the German Civil Code). In the case where Spheros accepts any cheques or bills of exchange, Spheros will only accept them on account of performance. Even if it accepted cheques and bills of exchange, Spheros reserves its right to return them and demand immediate payment or other securities in case there is a risk that they do not provide sufficient security. Discount and bill charges shall be borne by the Buyer and are immediately due.**

2) If Spheros becomes aware of circumstances which suggest that the Buyer's financial situation has deteriorated considerably after conclusion of the contract, particularly if the Buyer fails to pay invoices due for payment, and if, therefore, payment claims by Spheros appear to be at risk, Spheros is entitled to execute deliveries exclusively against immediate full or partial payment or against the provision of a security. In case of insolvency or the Buyer's inability to pay, Spheros is entitled to rescind all contracts.

3) The Buyer is only entitled to a set-off in cases where the Buyer's claims are undisputed or legally confirmed.

10. Final conclusions

1) If the Buyer is a corporation, limited liability company, commercial partnership or otherwise operates a commercial business (*Kaufmann* within the meaning of § 1 (1) of the German Commercial Code (Handelsgesetzbuch), the place for fulfilment of obligations shall be the registered office of Spheros which also determines the legal venue.

2) These General Terms and Conditions are governed by the laws of the Federal Republic of Germany. The application of the UN Convention on the International Sale of Goods (CISG) shall be excluded.

3) In the event that a provision of these General Terms and Conditions is or becomes invalid, the remaining provisions will continue in full force and effect.