

The following General Terms and Conditions of Business replace the General Terms and Conditions of Business dated April 15, 2011, 4pm, and are effective as of August 2, 2013, 4pm.

I. General, Applicable Law

1. User of these General Terms and Conditions of Business

The user of these General Terms and Conditions of Business is Auktion & Markt AG, an *Aktiengesellschaft* (German Public Limited Company) under the laws of the Federal Republic of Germany with its registered office in Wiesbaden, entered in the commercial register of Wiesbaden Local Court with register number HRB 20968.

2. Subject of these General Terms and Conditions of Business

The subject of these General Terms and Conditions of Business is the regulation of the sale of moveable items from the user as an entrepreneur (hereinafter referred to as the "Seller") to persons who are also entrepreneurs and are not consumers (hereinafter referred to as the "Purchasers"), with the purchase being processed via the User's Internet platform with the URL www.autobid.de, and the external process of the sale being similar to that of an auction. However, legal purchase transactions result as a result of an offer and acceptance according to Sections 145 - 151 of the *Bürgerliches Gesetzbuch* (BGB – German Commercial Code) and not by a tender being awarded according to Section 156 of the BGB.

The General Terms and Conditions of Business apply to all types of sale events at the URL www.autobid.de; unless the seller declares that separate General Terms and Conditions of Business apply for individual sales events.

3. Other General Terms and Conditions of Business

The following General Terms and Conditions of Business also apply for future transactions with the Purchaser, to the extent that they are not replaced by other terms and conditions by the Seller prior to the future transactions and these are informed to the Purchaser. Any contrasting General Terms and Conditions of Business from the Purchaser do not apply, even if the Seller does not expressly object to these.

4. Applicable Law

The laws of the Federal Republic of Germany expressly excluding UN purchasing law (CISG) apply exclusively.

II. Registration as a Purchaser, Admission as a Purchaser

1. Registration as a Purchaser

Consumers within the meaning of Section 13 of the BGB may not be purchasers. Purchasers can only be entrepreneurs within the meaning of Section 14 of the BGB, who acquire the purchased item to perform their trade or profession, if the subject of their trade or profession is dealing in vehicles.

Each purchaser must register in writing before participating a sale event for the first time. Each purchaser must, prior to being admitted for the first time to issue offers, prove their capacity as an entrepreneur and expressly declare that they are a vehicle dealer and prove this. The seller determines the manner in which proof must be provided.

In the case of purchasers with their registered offices within the Federal Republic of Germany, proof always requires: Copy of business, in the case of merchants and companies entered in the commercial register a copy of the extract from the commercial register, a copy of the business owner's personal identity card (or that of the managing director or CEO registered in the commercial register).

In the case of purchasers with their registered office outside the Federal Republic of Germany, in addition certified translations of the above documents in a foreign language into German are required. Purchasers with their registered office in a country of the European Union and for purchasers with their registered office in the Federal Republic of Germany must also provide their valid identification number for value added tax.

All purchasers must, in addition to the above documents, return the signed registration confirmation and recognition of the General Terms and Conditions of Business to the Seller.

2. Admission as a Purchaser

If the purchaser proves that he is an entrepreneur within the meaning of the above conditions, he receives confirmation of

his registration from the Seller. This is sent to him by e-mail and includes the Purchaser's personal password, set by the Seller. The Purchaser can log in to sale events using this password and the "user name" that the Purchaser can freely select, as soon as the Purchaser has returned the documents named in Item 1 to the Seller. The "user name" will be displayed for all of the participants in the sale process display, the Purchaser's name remains anonymous, and the password also remains secret.

Each Purchaser must inform the Seller immediately of any changes to his data (e.g., name, registered office, address).

In addition, the Seller reserves the right to admit a Purchaser to a sales event. The Seller will not unjustly refuse admission.

III. Reaching an Agreement

1. Request to Issue Offers

The Seller advertises moveable items for sale in electronic sales catalogs. Each moveable item has a minimum price in these catalogs. For each moveable item, the sales catalog also states whether this is a new or used item, and whether the sale can be implemented, exceptionally, as a "net sale" with the purchase price thus being the highest offer excluding VAT. Upon publication of the sales catalog online, the Seller requests potential purchasers to make offers.

2. Offer Deadline, Offers, Binding Offers

a) The Seller redefines the duration of the "hot bid period" for each auction. The "hot bid period" starts again for each offer newly made. If no further offer is made during a "hot bid period", this ends at the end of the period set by the system and the offer phase ends.

b) The Seller reserves the right to end the "hot bid period" earlier if certain circumstances are present.

c) The Purchaser makes an offer by entering a figure during the offer period. The offer can also be lower than the minimum price. The Purchaser is only bound by his offer through to the end of a 48-hour period after the end of the "hot bid period"; in the case of offers lower than the minimum price, that are shown on the screen as being "subject to reservation", the

Purchaser is bound through to the end of a 72-hour period after the end of the "hot bid phase". No more offers can be made after the end of the offer period.

Offers can not only be made by entering figures during the ongoing offer phase, but also in advance via a highest-price offer in the electronic bidding agent. The bidding agent is a technical instrument which automatically overbids other offers made electronically by a minimum increase amount set in the auction catalog, up to the Purchaser's maximum price bid.

3. Acceptance of Offer

The Seller can reject offers by the Purchaser that are lower than the minimum price. The Seller can also reject offers higher than the minimum price and is not obliged to accept offers by the Purchaser. To the extent that he does not avail of his right to not accept offers, the Seller will accept the highest offer. During the period in which offers are binding for the Purchaser, the Seller decides whether he accepts the Purchaser's offer. The Seller will inform the Purchaser of his acceptance of the offer via e-mail; the Purchaser does not have to separately declare his acceptance.

4. Purchase Agreement

A purchase agreement arises between the Seller and the Purchaser with the e-mail in which the Seller accepts the offer.

5. Purchase Price

a) Purchasers from the Federal Republic of Germany

The purchase price corresponds to the Purchaser's highest bid and includes the VAT applicable in the Federal Republic of Germany (gross purchase price) in the respective statutory amount - to the extent that nothing to the contrary was expressly stated for the respective item in the sales catalog. In the case of German purchasers, the Seller will issue a proper invoice with the net purchase price and the respective statutory amount of value added tax due. The above sentence does not apply if this relates to a sale which is subject to differential taxation according to Section 25a of the *Umsatzsteuergesetz* (German Value Added Tax Act).

b) Purchasers from EU countries outside the Federal Republic of Germany

Purchasers from EU countries other than the Federal Republic of Germany must inform the Seller in writing of the valid international VAT ID number which they have been issued with prior to making an offer for items subject to value added tax, and in so doing they must issue a written guarantee to the Seller that the purchased item will be taken immediately to another EU country outside the Federal Republic of Germany.

The Purchaser initially receives a gross invoice for the purchase price and the costs of processing the contract. If the conditions required in the German Value Added Tax Act apply, the Purchaser receives a net invoice for the purchase price and the costs of processing the contract.

The invoice must be settled via a bank transfer from a bank account in the Purchaser's name.

The documents to be presented by the Purchaser for proper processing within the meaning of the German Value Added Tax Act are stated in the separate Information for EU Purchasers [Downloadcenter].

c) Purchasers from non-EU countries (third-party countries)

Purchasers from non-EU countries (third-party countries) must pay the Seller a deposit in the amount of the value added tax on the purchase price that applies in the Federal Republic of Germany. This deposit will be refunded to the Purchaser immediately as soon as the conditions under the Value Added Tax Act are present. In this regard, the Seller must be presented with an original copy of the completed export declaration bearing a stamp by the EU customs office. After receipt of the form, the deposit will be refunded to the Purchaser immediately. The entitlement to payment of the deposit can only be assigned with the Seller's permission.

d) Costs of processing the contract

aa) The Purchaser bears the purchase price and also the costs of processing the contract. The costs of processing the contract (fees) are based on the Seller's respective applicable price list, which can be viewed under [price list](#).

There is a separate price list for the sales event Market Place.

bb) The costs of processing the contract are due together with the purchase price.

e) Costs of payment transactions, fulfillment

The Purchaser bears any bank fees due as a result of an international bank transfer.

If the acceptance of checks or bills of exchange has been agreed in individual cases, this is only on account of performance and not in fulfillment.

IV. Electronic invoices

1. The Purchaser agrees that he accepts electronic invoices.
2. Electronic invoices will be transferred to the customer's mail box.
3. The Purchaser will be informed that he must check the signature on the electronic invoice.
4. The Purchaser will be informed that the invoice transferred electronically may be printed on paper, however that the paper copy does not constitute a receipt under tax law.
5. The invoice sent in electronic form is to be filed for ten years, as is the case for an invoice on paper.

V. Advance payment

After conclusion of the contract, the Purchaser undertakes to pay, in advance, the purchase price and the costs of processing the contract (Item III.5.) The Purchaser thus only receives the purchased item after he has fully met his payment obligations.

VI. Transfer of risk, collection, transfer of ownership

1. Transfer of risk

Upon payment of the purchase price, the risk of random deterioration and random loss of the item are transferred to the Purchaser.

2. Collection

a) The Purchaser must collect purchased items at his own expense where the item is located, as stated in the electronic sales catalog.

b) Purchasers from EU countries outside the Federal Republic of Germany can only have the purchased item collected and exported out of the Federal Republic of Germany via a shipping company engaged on behalf of and for the account of the Purchaser.

Collection by the Purchaser himself or another third party is not permitted.

A shipping certificate in line with the Seller's sample certificate must be provided by the shipping company ("extended shipping certificate").

3. Transfer of ownership

The Purchaser will receive a collection document directly upon payment of the invoice. Upon presentation of the collection document, the Purchaser will receive the purchased item at the designated location, subject to the regulations under VI.2.

VII. Seller's right of retention

The Seller is authorized to refuse to issue the collection document and hand over the item until the Purchaser has met all of the due liabilities to the Seller, even if the liabilities result from other sales and/or other legal relationships.

VIII. Reservation of ownership

All of the items used remain under the ownership of the Seller until all of the Seller's claims against the Purchaser have been fulfilled. The Purchaser is not authorized to pledge the moveable item or to transfer it as collateral. The Purchaser is authorized to re-sell the used item in proper business. The reservation of ownership also covers the receivable for the purchase price in the event the item is resold (extended reservation of ownership).

IX. Payment conditions and reservation of supplementary performance

The purchase price and the costs of processing the contract are due in full upon receipt of the invoice. The Purchaser defaults, without further declarations by the Seller, if he has not paid within 7 days of the due date. If any defects are present, the Purchaser is not due a right of retention, unless the delivery is clearly defective or if the Purchaser clearly has a right to refuse to accept the purchased item. In this case, the Purchaser is only entitled to reserve payment to the extent that the amount retained is reasonably proportionate to the defects and the anticipated costs of supplementary performance (in particular rectification of a defect). The Purchaser is not authorized to assert claims and rights due to defects if he has not made the due payments and to the extent that the due amount (including any payments made) is reasonably proportionate to the value of the defective moveable item.

X. Rescission from the agreement, rights for delayed payment, offsetting and retention rights

1. Rescission

The Seller is authorized to rescind the agreement if the Purchaser has provided incorrect information on his creditworthiness, discontinued payments or if bankruptcy proceedings have been filed for regarding his assets.

If, before risk is transferred to the Purchaser, the item is damaged or it is lost, the Seller is authorized to rescind the agreement if the Seller informs the Purchaser of the damage or loss without delay and immediately refunds the Purchaser for the purchase price paid. There are no other further-reaching mutual claims after the rescission with repayment of the purchase price.

If, after risk is transferred to the Purchaser and before possession is transferred, the sold item is damaged or it is lost due to circumstances for which the Seller is responsible, the Seller is authorized to rescind the agreement if the Seller informs the Purchaser of the damage or loss without delay and immediately refunds the Purchaser for the purchase price paid. There are no other further-reaching mutual claims after the rescission with repayment of the purchase price.

2. Default damage

a) The first payment reminder which gives rise to default is free of charge. The second payment reminder in the event of non-payment is charged to the Purchaser in the amount of EUR 15, unless the Purchaser can prove that costs did not arise or did not arise in this amount for the Seller.

b) The Seller is authorized, in the event of default by the Purchaser, to demand default interest of 8 percentage points over the respective base rate. He may also assert higher damage. The Purchaser reserves the right to prove that no or less default damage arose for the Seller.

3. Offsetting or retention rights

The Purchaser is only due offsetting or retention rights if his counterclaims have been legally ascertained, are undisputed or have been recognized by the Seller.

XI. Proviso to make changes

The information on the fittings of the items to be sold and the description of their condition were prepared by the Seller to the best of his knowledge and belief, and include in the sale catalogs. Immaterial differences in the items delivered are accepted by the Purchaser, this applies, for example, to lesser fittings. Better fittings are always to be regarded as an improvement to the item delivered.

Information in the sales catalogs do not constitute agreed characteristics, assurances on a certain suitability for use, or a declaration of guarantee.

XII. Delay charge

If the Purchaser's default on acceptance leads to a delay in collection, the Seller can charge € 6.00 per day of acceptance delay, plus the respective applicable statutory value added tax.

The Purchaser reserves the right to prove that no or substantially less damage arose for the Seller. The Seller reserves the right to prove that higher damage arose.

XIII. Reservation of self-delivery

The right to correct and timely self-delivery is reserved.

The Seller will inform the Purchaser immediately of the non-availability of the item to be delivered, and in the event of rescission will refund the corresponding compensation to the Purchaser without delay.

XIV. Liability for physical and legal defects

1. Physical and legal defects

a) In the case of used items, claims due to physical and legal defects are excluded.

b) In the case of new items, the Seller assigns the claims due to him from the manufacturer of the item (and from the Seller's suppliers) as a result of physical and legal defects. However, the Seller has subsidiary liability for physical and legal defects according to the purchasing laws in the BGB if the manufacturer of the items (or the Seller's supplier) has not or not fully fulfilled the Purchaser's claims from physical or legal defects from assigned rights.

2. Liability from culpa in contrahendo and tortious liability

Liability from culpa in contrahendo and liability in tort is excluded.

3. Limitation of all exclusions of liability in these General Terms and Conditions of Business

The legal restrictions in these General Terms and Conditions of Business do not include the Seller's liability to the Purchaser for

- Willfulness or malice or an expressly declared guarantee,
- Damage caused willfully or through gross negligence,
- Damage from culpable violation of material contractual obligations,
- Damage from fatalities, physical injuries or damage to health that are due to a willful or negligent violation of obligations by the Seller, his legal representatives or vicarious agents.

XV. Limitation of liability in the event delayed performance

1. Liability in the event of delayed performance

The Seller is not liable in the event of delayed performance.

2. Limitation of exclusion of liability

The legal restrictions as part of liability for delayed performance do not include the Seller's liability to the Purchaser for

- Willfulness or malice or an expressly declared guarantee,
- Damage caused willfully or through gross negligence,
- Damage from culpable violation of material contractual obligations,
- Damage from fatalities, physical injuries or damage to health that are due to a willful or negligent violation of obligations by the Seller, his legal representatives or vicarious agents.

XVI. Limited liability in the event of inability to deliver

1. Limited liability in the event of inability to make performance

The Seller is not liable in the event inability to make performance.

2. Limitation of exclusion of liability

The legal restrictions as part of liability for inability to make performance do not include the Seller's liability to the Purchaser for

- Willfulness or malice or an expressly declared guarantee,
- Damage caused willfully or through gross negligence,
- Damage from culpable violation of material contractual obligations,
- Damage from fatalities, physical injuries or damage to health that are due to a willful or negligent violation of obligations by the Seller, or a willful or negligent violation of obligations by his legal representative or vicarious agents.

XVII. Seller's claims to compensation for damage

The Seller's right to claim compensation for damage is based on the statutory provisions, to the extent that these General Terms and Conditions of Business do not stipulate anything to the contrary.

If the Seller demands compensation for damage instead of performance, and if he has not yet shipped the purchased item or if he has taken this back, he is due a lump-sum amount of 8% of the purchase price as compensation for damage without providing special proof. The Purchaser reserves the right to prove that the damage was less than the above lump-sum amount. If the Seller can prove further-reaching damage he can also demand that this is refunded.

XVIII. Rescission

The Purchaser can only rescind the agreement according to the statutory provisions if the Seller is in violation of his obligations. In the event of a violation of obligations, the Purchaser must, within a reasonable period and after being requested to do so by the Seller, declare whether he will rescind the Agreement due to the violation of obligations, or if he demands delivery. However, in the event of defects, the statutory provisions on rescission apply, subject to the above provisions in these General Terms and Conditions of Business.

XIX. Statute of limitations

1. Limitation period

The limitation period is one year from the statutory start of the period of limitation, with the exception of the claims stated under Item XIV. No. 3, Item XV. No. 2 and Item XVI. No. 2.

2. Start of limitation period

The limitation period for all damage claims commences with acceptance, with the exception of the claims stated under Item XIV. No. 3, Item XV. No. 2 and Item XVI. No. 2.

XX. Place of fulfillment and sole place of venue, general, prohibition on assignment

1. Place of fulfillment and sole place of venue

Place of fulfillment and sole place of venue for both contacting parties is the Seller's registered office, including for suits regarding bills of exchange or checks.

2. General

If individual parts of these General Terms and Conditions of Business violate contractual provisions or otherwise be ineffective, this does not remove the Purchaser's obligation from his obligation to accept the purchased goods and to uphold the other agreements. If one of the provisions should be or become invalid, this does not affect the validity of the other conditions. In this case, the statutory requirement which economically most closely approximates the invalid provision applies in place of the invalid provision. This also applies in the event of gaps in the contract.

3. Prohibition on assignment

The Purchaser's rights from the purchase agreement concluded can only be assigned with the Seller's consent.

XXI. Market place

The following additional special features apply to the Market Place:

1. Request to Issue Offers

The moveable item must bear a fixed price in stead of a minimum price.

The purchaser is requested to make a binding purchase offer using the "purchase request" button.

2. Offer Deadline, Offers, Binding Offers

- a) There is no "hot bid period".
- b) The Purchaser makes a binding offer by entering a figure ("purchase request").
- c) After issuing a purchase request, the Purchaser receives an e-mail with all of the key data for the vehicle and the Purchaser's offer.
- d) The Purchaser is bound by his offer up to the end of two working days after issuing his purchase request.