



Uniform Terms and Conditions for
Original Equipment Customers of Germany
based Companies of the MAHLE Group

1. Definitions, Scope of Application

a) The following Terms and Conditions of Sale and Delivery shall apply for the legal relations between the Customers and the respective MAHLE company exclusively; MAHLE shall not recognize any conflicting or differing Terms and Conditions of the Customer unless MAHLE expressly approved the applicability thereof in writing. The following Terms and Conditions shall also apply in the event MAHLE performs the delivery to the Customer without reservation while aware of the conflicting or differing Terms and Conditions of the Customer.

b) Any arrangements or collateral agreements variant from these Terms and Conditions shall only be valid provided such are confirmed by MAHLE in writing.

2. Offers, Offer Documents, Order Confirmation

a) In the event an order qualifies as an offer pursuant to § 145 of the German Civil Code, MAHLE may accept such order within four weeks.

b) MAHLE hereby reserves the rights to ownership of and copyrights on drawings, calculations and any other documents. This shall also apply to any written documents designated "confidential." The Customer shall require the expressed written consent of MAHLE to forward such documents to third parties.

c) A contract for delivery shall first be effected by way of a written order confirmation of MAHLE, though upon delivery at the latest. The sending of a confirmation per remote data transfer shall satisfy the requirement for the written form. In the event MAHLE can prove that it sent a statement per fax or remote data transfer by presenting a dispatch report, it shall be assumed that the Customer received such statement.

3. Prices, Terms and Conditions of Payment

a) All prices of MAHLE shall be considered ex works plus the legally applicable value-added tax on the date of invoicing excluding packaging; packaging shall be invoiced separately.

b) Provided no other payment periods are agreed upon, payments are to be rendered as follows: either within 30 days after the invoice date without deduction or within 14 days after the invoice date with a 2% cash discount. Payment shall be rendered by way of bank remittance or check. The receipt of payment by MAHLE shall be decisive with regard to the timeliness thereof.

c) In the event of delayed or deferred payment, MAHLE shall be entitled to charge normal bank interest - at a minimum of 5% above the current base rate published by the German Bundesbank without requiring formal service of default. In the event the Customer is in default in payment, MAHLE shall be entitled to recollect the delivery item until it is paid for in full or withdraw from the Contract without waiving its claims.

d) The Customer may only set off claims with undisputed counterclaims recognized by MAHLE or recognized by a non-appealable judgment. The Customer shall only be authorized to exercise a retention right in the event its counterclaim is based on the same contractual relation.

e) In the event after the conclusion of the Contract MAHLE becomes aware of circumstances which challenge the creditworthiness of the Customer or in the event of a substantial risk of its claim to payment due to dwindling assets of the Customer, or in the

event the Customer falls into arrears over the payment of a purchase price, MAHLE may request advance payment or collateral within a reasonable period and refuse performance until its request is fulfilled.

In the event the Customer refuses to render an advance payment or provide collateral or in the event the period determined has lapsed without result, MAHLE shall be entitled to withdraw from the Contract in whole or in part and demand damage compensation due to non-performance.

f) In addition to the legal requirements, the Customer may be served default by way of a reminder after the due date has passed. In the event the payment date is determined by the calendar, the Customer shall also fall into arrears without a reminder. In the event of the delayed payment of the Customer, MAHLE shall, in addition, be entitled to retain all deliveries or performances.

4. Retention of Title

a) MAHLE hereby reserves the right to title to the delivery items until all payments from the business relation with the Customer have been received.

b) In the event the Customer acts in breach of contract, in particular, in the event of delayed payment, MAHLE shall be entitled to take back the delivery items after reminding the Customer and the customer shall be obligated to surrender the delivery items.

c) The assertion of the retention of title as well as the pledging of the delivery items by MAHLE shall not be considered a withdrawal from the Contract.

d) The Customer shall be entitled to resell the delivery items within the ordinary course of business; the Customer hereby assigns MAHLE all claims incurred by the Customer from the resale in the amount of the purchase price agreed upon by MAHLE and the Customer (including value-added tax) in advance regardless of whether the delivery items are sold without being fabricated or after being fabricated. The Customer shall be empowered to collect such claims after the claims have been assigned. The authorization of MAHLE to collect the claims itself shall remain unaffected thereby; MAHLE, however, hereby agrees not to collect the claims as long as the Customer properly fulfils its payment obligations and is not in arrears in payment. In the event this is, however, not the case, MAHLE may demand that the Customer disclose the assigned claims and their debtors, provide all information necessary for collection, surrender the related documents and inform the debtors (third parties) of the assignment.

e) The goods shall always be processed or transformed by the Customer on behalf of MAHLE. In the event the delivery items are processed with other objects not belonging to MAHLE, the MAHLE shall acquire the joint title to the new item in proportion of the value of the delivery items to the other fabricated objects at the time of the fabrication.

f) In the event the delivery items are mixed with other objects not belonging to MAHLE to the extent that they cannot be separated from one another, MAHLE shall acquire the joint title to the new items in proportion of the value of the delivery items to the other mixed objects. The Customer shall keep in safe custody the joint title for MAHLE.

g) The Customer may neither pledge the delivery items nor transfer the ownership of such items by way of security. The Customer shall inform MAHLE

immediately in the event of any pledging as well as any attachment orders or any other third party dispositions and provide MAHLE any information and documentation necessary to safeguard its rights. Enforcement officers and third parties are to be referred to the title of MAHLE.

h) MAHLE hereby agrees to release the securities to which it is entitled upon the request of the Customer to the extent such securities do not exceed the value of the claims to be secured by MAHLE by more than 20%, provided such have not yet been satisfied. MAHLE shall be responsible for selecting the securities to be released.

5. Deliveries, Delivery Period

a) The observation of agreed-upon delivery and performance dates shall require that all technical matters have been clarified and payments or any other obligations of the Customer have been fulfilled or will be fulfilled in due time. In the event technical matters have not been clarified and the customer has not fulfilled its obligations, the period shall be adequately extended.

b) Partial deliveries shall be permissible provided no disadvantages for use arise thereby.

c) MAHLE hereby reserves the right to additional and reduced deliveries by up to 10%.

d) In the event the delivery is delayed upon the request of the Customer, the good shall be taken into custody at the risk and expense of the Customer at MAHLE.

e) The delivery period shall be extended by the duration of the hindrance in the event of force majeure, strike, inability to perform not caused by someone's negligence as well as any adverse weather conditions.

f) In the event the Customer falls into arrears in accepting delivery or violates any other cooperation duties, MAHLE shall be entitled to give preference to other third-party orders and reasonably extend the delivery period. Irrespective of any further claims, MAHLE shall be entitled to demand that any damages it incurs in this regard, including any additional expenses be compensated.

6. Default in Delivery

a) MAHLE shall be obligated to compensate the Customer for any damage caused by default in delivery. This shall not apply to lost profit or any damage due to interruption of operations.

b) In the event of ordinary negligence, damage compensation shall be limited to additional shipping costs, subsequent upgrades and to additional expenses for the purchase of goods in replacement after failing to set a grace period or in the event of loss of interest in the delivery.

c) The financial conditions of MAHLE, the type, scope, and duration of the business relation and the value of the part supplied in favor of MAHLE are to adequately be taken into consideration in good faith with regard to the amount of the damage compensation.

7. Shipping, Transfer of Risk

a) Unless specified otherwise in the order confirmation, delivery ex works shall be agreed upon. Shipping shall take place at the risk and expense of the Customer. This shall also apply to return shipments.

b) Any transport or other disposable packaging shall not be taken back.

8. Property Rights

The Customer hereby agrees to immediately inform MAHLE of any third-party property right claims with regard to the delivered products and to leave the legal defense to MAHLE at its own expense. MAHLE shall be entitled to perform any necessary alterations at its own expense also with regard to delivered and purchased goods due to third-property right claims.

9. Warranty

a) The Customer shall inform MAHLE immediately in writing of any defects of the delivery as soon as such are determined in accordance with the circumstances of the ordinary course of business. MAHLE hereby waives the defense of the delayed notice of defects in this regard.

b) In the event of any deliveries of defective goods, MAHLE shall first be given the opportunity to sort out and subsequently improve or replace the good prior to the start of the fabrication (processing or installation) unless such cannot be reasonably expected of the Customer. In the event MAHLE cannot sort out, subsequently improve or replace the good or in the event MAHLE does not do so immediately, the Customer may withdraw from the Contract in this regard and return the good to MAHLE at the risk of the MAHLE. In urgent cases, the Customer may perform improvements itself or have such improvements carried out by a third party in consultation with MAHLE. MAHLE shall bear any costs arising thereby.

In the event the same good is repeatedly delivered defective, the Customer shall also be entitled to withdraw for the non-performed scope of delivery after written reminder upon the repeatedly defective delivery.

c) In the event a defect is first determined after the start of fabrication despite duly regarding the obligation pursuant to Section 9, No. a), the Customer may only demand damage compensation for additional expenses beyond the provision in Section 9, No. b) in the event such is contractually agreed upon. Section 6, No. c) is to be taken into consideration with regard to any new agreements to be concluded.

d) The Customer shall immediately provide MAHLE the parts to be replaced by MAHLE upon request and at the expense of MAHLE.

e) No warranty claims shall arise in the event the defect can be traced to the violation of operating instructions, maintenance and installation provisions, unsuitable or improper use, incorrect or negligent treatment and natural wear and tear as well as any interference with the delivery item by the Customer or third parties.

f) Unless stipulated otherwise above, the warranty shall be in accordance with the provisions of law. Warranted qualities shall be expressly designated as such in detail in writing.

g) Solely the first sample, workshop drawing of MAHLE or the agreed-upon product performance specifications sent to the Customer for review and testing shall be decisive for the embodiment, size, weight and calibration. Within this framework, MAHLE hereby warrants the faultlessness of material and workmanship in accordance with the current state of technology in such a fashion that in the event of impracticality as a result of demonstrated differences from the first sample of MAHLE of its choice, MAHLE shall replace, repair or render a credit note for the defective part. This shall require that such impracticality enters with regard to motor vehicles

throughout a term of 6 months after the first admission of the motor vehicles – though up to a total performance of 10,000 km at most and with regard to other machines, throughout an operation duration of six months in single-shift operation and that the parts are properly stored until they are installed. The warranty period shall cease 12 months after delivery at the latest. In the event the improvement or delivery of replacements fails, Section 9, Nos. b) through f) shall apply accordingly.

h) The following variation shall apply to the delivery of large bore pistons:

The warranty shall cease upon the expiration of 12 months after being commissioned though after the expiration of 24 months after delivery to the Customer at the latest. In the event the improvement or delivery of replacement parts fails, Section 9, Nos. b) through f) shall apply.

i) The following variation shall apply to the delivery of replacement parts:

The legal warranty and its period of limitation shall be considered agreed upon.

10. Liability

Unless another liability provision is arranged elsewhere in these Terms and Conditions, MAHLE shall only be obligated to compensate damage incurred by the Customer directly or indirectly as a result of incorrect delivery, due to violation of official safety provisions or for any other legal basis attributed to MAHLE as follows:

a) Damage compensation shall, in principle, only be given in the event MAHLE is at fault for the damage caused by it.

b) In the event recourse is not taken against the Customer due to non-mandatory law based on liability vis-à-vis third parties, MAHLE shall subrogate the Customer to the extent that the Customer would also be directly liable. The principles of § 254 of the German Civil Code shall apply accordingly to the damage compensation between the Customer and MAHLE. This shall also apply in the event direct recourse is taken against MAHLE.

c) The obligation to compensate damage shall be excluded in the event the Customer effectively limits the liability vis-à-vis its customers on its behalf. The Customer shall endeavor to agree upon limitations of liabilities in a legally permissible scope in favor of MAHLE.

d) The Customer's claims shall be excluded insofar as the damage can be traced to the Customer's violation of the operating instructions, maintenance and installation provisions, unsuitable or improper use, incorrect or negligent treatment natural wear and tear or incorrect repairs.

e) MAHLE shall be liable for measures of the Customer to prevent damage (e.g., recall operation) insofar as MAHLE is legally obligated in this regard.

f) The Customer shall inform and consult MAHLE immediately and conclusively in the event the Customer intends to take recourse against MAHLE in accordance with the above provisions. The Customer shall give MAHLE the opportunity to inspect the damage event. The Parties shall agree on the measures to be taken, in particular, with regard to composition negotiations.

g) The principles listed in Section 6, Nos. a) and c) are to be applied accordingly unless MAHLE has sufficient insurance.

11. Design, Tools and Fixtures

a) Analyses and tests of the Customer shall be decisive for the faultless suitability of the design and the material of the parts to be produced by MAHLE. All proposals, drawings and any other documents given by MAHLE to the Customer shall remain the property of MAHLE and may not be made accessible to third parties without written approval. The Customer shall be liable for the legality of the use of the drawings, sketches, models, etc. sent to MAHLE.

b) Models, casting molds, forging tools and dies, fixtures and other operating devices shall be invoiced separately. Such shall remain the property of MAHLE even if a share of the costs was charged.

12. Cast Parts

a) All parts shall be manufactured in accordance with tolerance lists of MAHLE or as exactly as possible using state-of-the-art injection molding, permanent mold casting or any other casting processes on the date of the acceptance of the order. Exact tolerances and, in particular, machining of individual sections of the parts shall be subject to prior approval for each dimension. The delivery of gauges and tools for the machining of the parts shall not be included in the cost estimate.

b) In the event the wear and tear of the mold makes a full or partial replacement necessary, MAHLE shall replace such mold at the expense of the Customer unless the Customer provides evidence that the wear and tear is based on improper use or treatment. The date of the replacement shall result from the quality of the parts delivered.

c) The Customer shall deliver cast-in inserts true to gauge and ready to be cast and the quantity of the inserts must exceed at least 10% of the quantity to be delivered. Any costs for rework of cast-in inserts are to be borne by the Customer. Any rejected items arising are to be delivered in replacement by the Customer free of charge.

13. Place of Performance, Place of Jurisdiction, Applicable Law, Miscellaneous

a) Unless expressly agreed upon otherwise, the registered seat of MAHLE shall be the place of performance.

b) In the event the Customer is a merchant, corporate body under public law or holder of special funds under public law, the place of jurisdiction shall be the court competent for the registered seat of MAHLE. MAHLE shall, however, be entitled to file an action at the general place of jurisdiction of the Customer. This shall also apply in the event the Customer does not have a general place of jurisdiction in Germany, relocated its place of residence or customary place of abode to a location outside of Germany after concluding the Contract or in the event the Customer's place of residence or customary place of abode is not known on the date of the action.

c) Exclusively German law shall apply. The applicability of the United Nations Sales Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG – "Vienna Sales Law") shall be excluded thereby.

d) In the event any provision of these Terms and Conditions or part of any provision is or becomes invalid, the remaining provisions or portions of the provision shall remain unaffected thereby.

Stuttgart, April 2001