

**Terms and Conditions of Sale and Delivery for Vehicles, Machines, Devices
and other Consumer Goods and Repair thereof**

of

- GRUMA Nutzfahrzeuge GmbH, Friedberg

- GRUMA Fördertechnik GmbH, Garching b. München

I. Scope and Form

- 1) Unless otherwise agreed in writing, these General Terms and Conditions of Sale and Delivery (hereinafter referred to as “**GTS**”) shall apply to all offers and contracts for the sale of vehicles, machines, devices and other consumer goods, as well as spare parts and replacement units (hereinafter referred to as “**Goods**”), as well as to repair services not included in the warranty for defects (hereinafter referred to as “**Repairs**”) by GRUMA Nutzfahrzeuge GmbH or GRUMA Fördertechnik GmbH (hereinafter referred to as “**GRUMA**”). These GTS shall also apply to a contract that is subject to these GTS for the sale and/or delivery of movable objects, whether GRUMA manufactures these movable goods itself or purchases them from suppliers (§§ 433, 650 of the German Civil Code [BGB]).
- 2) These GTS are exclusively applicable. Any deviating, conflicting or supplementary General Terms and Conditions of the contracting party (hereinafter referred to as the “**Customer**”; GRUMA and the Customer hereinafter jointly referred to as the “**Parties**”) shall only become part of the contract if, and to the extent, that GRUMA has expressly agreed to their validity in writing. This approval requirements shall always apply, e.g. even if GRUMA fully provides the service to the Customer while being aware of the Customer’s General Terms and Conditions.
- 3) These GTS shall apply
 - a) to a natural person or a legal entity, or a partnership with legal capacity which, upon concluding a contract with GRUMA, is acting in the exercise of its commercial or independent professional activity (an “entrepreneur” within the meaning of §14 of the German Civil Code [BGB]) and
 - b) legal entities under public law or a special fund.
- 4) Insofar as it hasn’t been otherwise agreed, these GTS shall apply in the version applicable at the time of the order or acceptance by the Customer (or, should the Customer submit an offer to conclude a contract, at the time of submission of the offer) or, at least in the version last provided to the Customer in text form, as a framework agreement that can also be used for similar future contracts, without GRUMA having to refer to them again in each individual case.
- 5) Any legally relevant declarations and notifications made by the Customer relating to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) shall be issued in text form (e.g. in a letter, e-mail or fax). Legal formalities and other supporting documents, in particular in case of doubt about the legitimacy of the declaring party, shall remain unaffected.

- 6) Insofar as the Customer purchases Goods with telematics or other software components, the terms of use for the telematics or software components of the respective manufacturer shall also apply in their applicable version, which can be downloaded from www.gruma.de/agb/ under "Telematics".

II. Conclusion of the Contract

- 1) As a rule, a contract shall be concluded with the written order confirmation by GRUMA in relation with a purchase order, an order or an offer submitted by the Customer. Should GRUMA offer the Customer deliveries and services, the contract shall be concluded upon acceptance thereof by the Customer in accordance with the offer (both variants of a "**Conclusion of the Contract**"), whereby acceptance can only be declared within 15 days of receipt of the offer by the Customer. Should the Customer be subject to a deadline for accepting the offer, the contract shall only be concluded if it has been accepted within the deadline. If the Customer has not accepted the offer in due time or if his/her acceptance does not fully concur with the offer, this acceptance shall be deemed to be a new order placed by the Customer with GRUMA and a contract shall only be concluded with a written, concurring order confirmation by GRUMA.
- 2) If the Customer intends to resell the Goods purchased to consumers, the Customer shall inform GRUMA of this in writing prior to the conclusion of the contract.

III. Delivery and services

- 1) The contractual obligations of GRUMA shall arise from the order confirmation or the offer in conjunction with these GTS. Dimensions, weights, figures and drawings, as well as other documents included with the offers, are only approximately applicable, unless they are expressly designated as binding and insofar as they do not exceed the normal industry tolerances.
- 2) Ancillary agreements and amendments shall only be binding if they have been agreed in writing. The specifications for Goods from GRUMA, e.g. in advertisements, data sheets, catalogues, websites and documents related to any offer (hereinafter "**GRUMA Goods Information**"), e.g. figures and drawings, weight and dimension specifications as well as speeds, fuel consumption and operating costs, are approximate values with tolerance margins and do not constitute guarantees of such qualities.
- 3) GRUMA Goods Information, cost information, drawings and technical documents or other technical information may not be used (except for the installation, commissioning, use and maintenance of the Goods) or copied, reproduced, handed over or disclosed to third parties without the consent of GRUMA. GRUMA reserves the copyrights to all these documents.
- 4) GRUMA reserves the right to update the design and shape of the Goods during the delivery period, so long as the Goods do not undergo a fundamental change that is incompatible with the indicated planned use.

IV. Prices and Payments

- 1) The updated prices at the time of the conclusion of the contract shall apply, subject to Clause

IV.2. For Goods, these prices shall be understood as FCA “Delivery Works” (Incoterms 2020) plus the additional statutory value added tax currently applicable. The “**Delivery Works**” within the meaning of these GTS represents the GRUMA site that makes the Goods available for collection or dispatch in accordance with to the order confirmation or offer.

- 2) Unless otherwise agreed, for Goods to be dispatched by GRUMA (hereinafter referred to as “**Sales Shipment**”), the Customer shall bear the transport costs ex Delivery Works or ex warehouse, as well as the costs of any transport insurance requested by the Customer. The costs for transport and any insurance shall be invoiced to the Customer, either by the transport service provider commissioned by GRUMA, provided that the Customer has a contract account with said transport service provider, or invoiced separately by GRUMA in the contract invoice.
- 3) GRUMA shall be entitled to charge a 10.00 EUR processing fee for values below 50.00 EUR.
- 4) All prices for vehicles, machines, devices and other consumer goods (such as purchased parts and accessories, in particular batteries, loading and attachment devices) included in GRUMA’s offer, are calculated on the basis of the purchase prices at the time of drawing up the offer (see current offer date). The Parties acknowledge that extraordinary events may cause the prices to change significantly, and therefore agree on the following cost escalation cause:

If the producer price index “Industrial producer price – product group GP09-2822: Manufacture of Lifting and Handling Equipment” (hereinafter referred to as “**PPI**”) changes by more than 5% in the period between the month of conclusion of the contract and the month of readiness for collection/delivery within the meaning of Clause V.1, the contract price shall be modified in the same way as the PPI percentage change. The PPI can be found on the website of the Federal Statistical Office.

Should the resulting price increase exceed a relevance threshold of 10% of the agreed price, the Customer may withdraw in writing from the purchase contract within seven days of receipt of the notification of the price increase.

- 5) Unless a special agreement has been concluded, payment for vehicles, machines and devices shall be made net within 8 days from the date of the invoice, and for spare and replacement parts and repairs, it shall be made net within 8 days from the date of the invoice to GRUMA’s bank account stated on the respective invoice. The Customer shall bear the costs of discounting and claim collection. GRUMA shall be entitled at any time, even within the framework of an ongoing business relationship, to carry out a delivery or repair in whole or in part against advance payment or down payment only. GRUMA shall declare a reservation of the Goods, at the latest with the order confirmation or the offer.
- 6) The Customer shall only have a right of lien against claims of GRUMA to the extent that his/her counterclaim has been legally determined, is undisputed or has been recognised by GRUMA. Offsetting against claims of GRUMA shall be limited to counterclaims of the Customer resulting from the same contractual relationship or, insofar as they result from other legal relationships, are undisputed, legally determined or recognised by GRUMA. In the event of defects in the

delivery, the Customer's counter rights, in particular in accordance with Clause IX.2. sentence 4 of these GTS, shall remain unaffected.

- 7) Claims of the Customer against GRUMA may not be relinquished.
- 8) Following the conclusion of the contract, if it should become apparent that GRUMA's entitlement to remuneration is jeopardised by the Customer's inability to pay, GRUMA shall be entitled to refuse performance in accordance with the statutory provisions and, after setting a deadline if necessary, to withdraw from the contract. Should a contract be concluded for the manufacture of non-fungible products (custom-made), GRUMA may immediately retract from the contract. Statutory provisions on the dispensability of setting a deadline shall remain unaffected.
- 9) The notice period for a pending direct debit payment is reduced to one day when using the SEPA Direct Debit Scheme. GRUMA shall only announce collection of equal recurring payments once a year.

V. Delivery Period

- 1) The delivery period for Goods shall start upon conclusion of the contract, but not before receipt of any documents, approvals, information to be provided by the Customer and/or any advance payments or deposits to be made. The delivery period shall be deemed to have been complied with if, by the time of its expiry, the Goods are made available for collection by GRUMA at its "Delivery Works" according to FCA (Incoterms 2020) (hereinafter "**Readiness for Collection**") or, for a Sales Shipment, the Goods are ready for dispatch (hereinafter "**Readiness for Dispatch**"), and the Customer has been notified of the readiness for collection or dispatch. Compliance with the delivery deadline presupposes fulfilment of any of the Customer's contractual and cooperation obligations.
- 2) GRUMA reserves the right to adjust the delivery period if, after conclusion of the contract, the Customer wishes for changes to the Goods that are the subject of the contract.
- 3) The delivery period shall be extended appropriately in the event of measures within the scope of industrial disputes, in particular strikes and lock-outs, as well as in the event of unforeseen, unavoidable and non-culpable events (e.g. interruption of operations, disruption of telecommunications, official interventions, delay in the delivery of essential raw materials, seizure, energy supply difficulties, war, insurrection, embargo, epidemics, pandemics as well as natural disasters), which demonstrably have a considerable influence on the completion, shipment or delivery of the Goods. This shall also apply if such events affect sub-suppliers. GRUMA shall not be responsible for the aforementioned circumstances, even if they occur during an already existing delay.
- 4) In the event that GRUMA is unable to meet an agreed delivery deadline, GRUMA shall immediately inform the Customer and at the same time notify him/her of the expected new delivery deadline. If the service is not available within the new delivery period either, GRUMA shall be entitled to withdraw from the contract in whole or in part; GRUMA shall immediately refund any compensation already paid by the Customer.

- 5) If the collection or, in the case of a Sales Shipment, the dispatch is delayed at the request of the Customer, the Customer shall be charged, starting one month after notification of readiness for collection or dispatch, for the costs incurred by the storage. If storage takes place at the Delivery Works, the Customer shall be charged at least 0.5% of the invoice amount for each month (if applicable, pro rata temporis), but no more than 5% of the invoice amount in total, whereby GRUMA reserves the right to claim higher storage costs, against which the charged costs shall be offset. The Customer can provide evidence of lower costs for the storage of the Goods. GRUMA shall however be entitled, after setting a reasonable deadline in writing, to otherwise dispose of the Goods and to supply the Customer again after expiry of the delay on the basis of the agreed delivery conditions and subject to a new delivery deadline.
- 6) The execution of the contract is subject to the proviso that there are no obstacles to the performance of the service due to national or international regulations, in particular export control regulations, as well as embargos or other sanctions. The Parties undertake to provide all information and documentation required for the export/transfer/import. Any delays caused by export inspections or approval procedures impede deadlines and delivery times. If required approval permits are not granted, the contract shall be deemed not to have been concluded with regard to the parts concerned; claims for damages shall be excluded in this respect due to the aforementioned failure to meet deadlines in accordance with Section XI of these GTS.

VI. Packaging

- 1) A return of packaging material is excluded for packaging for which a dual system of waste disposal or a similar system has been established (packaging subject to system participation), which is recognised by the competent authority in accordance with the applicable packaging laws as amended. A return of packaging material is also excluded so long as GRUMA employs a suitable disposal company for the disposal in accordance with the applicable packaging laws as amended. In this case, the Customer shall be obliged to keep the packaging material ready and to hand it over to the disposal company, empty of residues.
- 2) If GRUMA agrees with the Customer that the latter waives his/her right of return in return for a flat-rate disposal fee, the Customer shall hand over the used packaging to a recognised disposal company that will ensure orderly disposal in accordance with the provisions of the applicable packaging laws.

VII. Transfer of risks

- 1) Delivery shall be made ex works, either by handing over the Goods to the Customer himself/herself or his/her transport person ("**Collection**") or by handing them over to a transport person designated by GRUMA ("**Dispatch**"). The shipping term FCA "Delivery Works" (Incoterms 2020) shall apply. "**Transport Person**" within the meaning of these GTS means any person commissioned with the transport of the Goods (e.g. transport company or freight forwarder), or any other person or institution tasked with the transport of the Goods.
- 2) In the event of Collection or Dispatch, the risk of accidental loss and deterioration as well as

the risk of delay shall pass over to the Customer as soon as the Goods have been handed over to the Customer or the Transport Person. This shall also apply if partial deliveries are made or GRUMA is providing other services (such as instruction).

- 3) If Collection does not take place on the specified date, GRUMA shall be authorised to Dispatch the Goods for the account and at the risk of the Customer.
- 4) If the Collection or, in the case of a Sales Shipment, the Dispatch is delayed due to circumstances for which the Customer is responsible, the risk shall pass over to the Customer from the day of notification of readiness for Collection or Dispatch.
- 5) Should the Customer be in default of acceptance or payment, or if the Customer genuinely and definitely refuses to accept the ordered Goods, GRUMA shall be entitled to withdraw from the contract and demand compensation for damages following a written reminder and setting a reasonable deadline.
- 6) Goods ready for collection or dispatched Goods, even if they have defects, are to be accepted by the Customer without prejudice to the rights under Section IX of these GTS, provided that these defects are not significant.

VIII. Retention of Title

- 1) GRUMA shall retain title to the Goods sold until full payment of all current and future claims arising from the purchase contract and an ongoing business relationship (hereinafter “**Secured Claim**” and “**Reserved Goods**”). This retention of title shall also continue to exist if the claims are included in a current account and the balance has been struck and acknowledged.
- 2) The Customer is obliged to treat the Reserved Goods with care and to insure them at his/her own expense against theft, machine failure, water, fire and other damage. The Customer shall carry out any maintenance and inspection work in good time and at his/her own expense.
- 3) The Customer may neither pledge the Reserved Goods to third parties nor assign them as security before full payment of the Secured Claim.
- 4) The Customer shall immediately notify GRUMA in writing of any seizures, confiscations or other dispositions by third parties with regard to the Reserved Goods. The costs of correcting such measures shall be borne by the Customer.
- 5) The Customer is entitled to resell the Reserved Goods or to transfer their use to third parties in return for payment in the ordinary course of business. However, the Customer hereby transfers all claims against his/her customers or third parties from the resale or transfer of use to GRUMA in the amount of the invoice value of the initial sale of the Reserved Goods (incl. VAT) or in the amount of any co-ownership share of GRUMA plus 10%, depending on whether the Reserved Goods are passed on without or after processing, and without this requiring separate, special declarations of transfer. GRUMA shall accept the transfer of claims. The obligations of the Customer laid out in Clause VIII.4. of these GTS shall also apply with regard to the transferred claims. The Customer shall remain authorised to collect the transferred claim even after

said transfer.

GRUMA's authority to collect the claim itself shall remain unaffected, but GRUMA shall only make use of this authority if the Customer fails to meet his/her payment obligations towards GRUMA, if the Customer is not able to fulfil the contract, or if GRUMA asserts the retention of title by exercising a right in accordance with Clause VIII.8. of these GTS. In the event of default in payment, GRUMA may demand payment of the amounts due to GRUMA by the debtor into a trust account named by GRUMA. GRUMA may also demand that the Customer's debtors make payments to GRUMA and that, for this purpose, the Customer names the debtors of the transferred claim to GRUMA, hands over the associated documents and discloses the transfer to these debtors. In such a case, GRUMA shall also be entitled to revoke the authority of the Customer to further sell and process the Reserved Goods.

- 6) If the claim from the resale cannot be transferred to said extent because the claim falls under a current account agreement between the Customer and his/her customer, then the balance from the current account relationship shall be deemed relinquished after balancing to the extent that the claim from the resale is to be transferred in accordance with the above provisions. This insurance shall remain in place until the entire claims of the Customer against the third party have been settled.
- 7) The retention of title shall also extend to any products resulting from the processing, combination, mixing or blending of the Reserved Goods at their full value, in which case GRUMA shall be deemed the manufacturer. Should the Customer process, combine, mix or blend the Reserved Goods with other goods not belonging to GRUMA, GRUMA shall acquire co-ownership of the new item in proportion to the value of the Reserved Goods to the other processed goods at the time of processing, combining, mixing or blending. The same shall otherwise apply to the resulting new product as to the Reserved Goods; they shall be deemed to be Goods subject to retention of title within the meaning of these GTS.
- 8) In the event of breach of contract by the Customer, in particular for default in payment, GRUMA shall be entitled to withdraw from the contract in accordance with the statutory provisions and to demand return of the Reserved Goods on the basis of the reservation of title. The demand for surrender shall not simultaneously include the declaration of withdrawal. GRUMA shall be entitled to demand only the surrender of the Reserved Goods and to reserve the right of withdrawal. In this case, the expiration of the delivery period shall be inhibited. Should the Customer not pay the purchase price due, GRUMA may only assert these rights if GRUMA has previously communicated, without success, a reasonable deadline for payment or if such a deadline is unnecessary under the statutory provisions.
- 9) GRUMA reserves the right, after removal of the hindrance to performance or provision of security, to supply delivery to the Customer subject to renewed validity and continuation of the agreed delivery period.
- 10) If the value that can be realised from the securities to which GRUMA is entitled exceeds the claims to be secured by more than 10%, GRUMA shall, at its own discretion, release securities

at the Customer's request.

IX. Claims for material defects and defects of title, limitation period for material defects

- 1) The Goods are deemed free of material defects if: they have the quality agreed in the contract at the time of transfer of risk; they are suitable for the use assumed under the contract; and they have been handed over with any agreed accessories and the agreed instructions (including assembly and installation instructions) (hereinafter “**Subjective Requirements**”). Insofar as assembly is to be carried out in relation to the Goods, the Goods shall be deemed free of material defects if they comply with the Subjective Requirements and the assembly has been carried out properly, or if the assembly has been carried out improperly, but this is not the result of improper assembly by GRUMA or a flaw in the instructions handed over to the Customer by GRUMA. Subjective Requirements shall only be binding for GRUMA if they have been agreed upon in writing in the order confirmation or the offer. Should no Subjective Requirements have been agreed, the Goods shall be deemed free from material defects if they comply with the Objective Requirements at the time of transfer of risk. In deviation from §434 para. 3 no. 1 to 4 of the German Civil Code (BGB), “**Objective Requirements**” for the Goods are exclusively established by GRUMA’s public statements in the specification sheet published at the time of conclusion of the contract on www.gruma.de (sub-pages included) for the Goods that are the subject matter of the contract. If no specification sheet is published there for the contractual Goods at the time of the conclusion of the contract, the Goods are deemed to comply with the Objective Requirements if they are suitable for normal use (§ 434 para. 3 sentence 1 no. 1 of the German Civil Code [BGB]). Concerning Goods with digital elements or other digital content, GRUMA shall only owe provision and, if applicable, updating of the digital content insofar as this explicitly results from a quality agreement pursuant to Clause IX.1.
- 2) If the Goods have a defect at the time of transfer of risk, the Customer’s claim to subsequent performance shall include, at GRUMA’s option, the free delivery of non-defective Goods (replacement delivery) or the free elimination of the defect (rectification). GRUMA shall be entitled to refuse to disassemble the defective item and/or to re-install it if GRUMA was not originally obliged to do so; Clause IX.5. of these GTC shall remain unaffected. GRUMA shall be entitled to decide whether to perform the supplementary service due depending on whether the Customer paid the purchase price due. However, the Customer shall be entitled to retain a reasonable part of the purchase price in relation to the defect. The Customer shall always grant GRUMA the necessary time and opportunity to carry out all rectification measures or replacement deliveries, which GRUMA has found necessary at its reasonable discretion; in particular to hand over the rejected Goods for inspection purposes or to allow access to these Goods. Otherwise, GRUMA shall be exempt from performing such services.
- 3) GRUMA shall in principle not be liable for defects of which the Customer is aware at the time of conclusion of the contract or is not aware due to gross negligence. The assertion of claims for material defects by the Customer, with the exception of those arising from contracts for work, presupposes that the Customer has properly fulfilled his/her obligation to inspect and give notice of defects in accordance with §377 and, if applicable, §381 of the German Commercial Code

(HGB). Goods intended for installation or other further processing must always be submitted to inspection immediately before processing. If a defect becomes apparent upon shipment or delivery, inspection or at any later time, the Customer shall notify GRUMA in writing without delay. In any case, the Customer shall report any obvious defects in writing within seven working days from delivery or shipment and defects not recognisable during the inspection within the same period from the moment of discovery. However, defects must be notified in writing no later than twelve months following the delivery or shipment of the Goods. Transport damage that is visible externally must be reported in writing immediately, non-visible transport damage within three days after delivery or shipment of the Goods. The Customer shall submit a notice of defects in writing with the relevant documents and samples and, if applicable, photographs. GRUMA shall not be obliged to return Goods sent back to it without its prior consent or to arrange for their storage. The Customer may not claim negligible material defects. Should the Customer fails to properly inspect the Goods and/or notify defects, GRUMA's liability for the defect not reported, not reported in time or not reported properly shall be excluded in accordance with the statutory provisions.

- 4) The following limitation periods shall apply to rights in respect of defects, with the exception of the cases specified in Clauses XI.1 and XI.2 of these GTS and the entrepreneur's recourse arising from a final delivery to consumers, for which the statutory limitation periods shall apply:
- a) GRUMA shall guarantee that the vehicles, machines and devices are free from material defects at the time of the transfer of risk for a period of twelve months, but no longer than 2,000 operating hours.
 - b) GRUMA shall also provide a warranty for the spare and replacement parts supplied and for repairs carried out for a period of twelve months, but no longer than 2,000 operating hours.

The warranty period begins with the transfer of risk.

There shall be no separate warranty period for rectifications and replacement deliveries under the warranty; the warranty period for the original Goods shall apply. However, the warranty period shall be extended by the duration of any interruption of operations caused by the rectification or replacement delivery.

No warranty is given for used Goods.

- 5) Should a defect actually exist, GRUMA shall bear or reimburse the necessary and reasonable expenses for the inspection and subsequent performance, in particular transport, travel, labour and material costs as well as, if applicable, dismantling and installation costs in accordance with the statutory provisions. This shall not apply to additional expenses incurred because the Goods were later taken to a place other than the contractual place of fulfilment. If the Good is not defective, GRUMA may demand that the Customer refunds the costs incurred as a result of the unjustified request for rectification of a defect (in particular inspection and transport costs), unless the Customer was unable to recognise that the Good was not defective.

Rectifications and repairs shall be carried out either at GRUMA's or at the Customer's site at GRUMA's discretion.

Subject to Section VIII. of these GTS, replaced parts shall, at GRUMA's discretion, remain the property of the Customer or become the property of GRUMA. If the rectification of defects takes place at GRUMA's site and the Customer retains property of the replaced parts, the return of these parts shall be carriage paid for the benefit of the Customer.

- 6) The Customer may only claim for damages or reimbursement of futile expenses in the event of defects in accordance with Section XI of these GTS. Such claims are otherwise excluded.

GRUMA declines all responsibility for damages due to

- a) the use of brute force,
- b) incorrect use,
- c) repair measures not carried out by GRUMA or trained staff,
- d) the use of inappropriate oils and operating material and
- e) parts that were not delivered by GRUMA.

GRUMA further declines all responsibility for the failure of or damage to wear parts caused by natural wear and tear.

- 7) If, through the fault of GRUMA, the delivered item cannot be used by the Customer in accordance with the contract as a result of failure to provide advice or of incorrect advice prior to or after conclusion of the contract, as well as a result of breach of other ancillary contractual obligations, the provisions of Sections IX. and X. of these GTS shall apply to the exclusion of further claims of the Customer.
- 8) If the contractual use of the unmodified Goods leads to the infringement of industrial property rights or copyrights, GRUMA shall, at its own expense, procure the right to further use for the Customer or modify the Goods in a manner reasonable for the Customer in order to eliminate said infringement of property rights.

If this is not possible on economically reasonable terms or within a reasonable period of time, the Customer shall be entitled to withdraw from the contract. GRUMA shall also be entitled to withdraw from the contract under the same conditions.

In addition, GRUMA shall indemnify the Customer against undisputed or legally established claims of the respective property right holders.

The obligations of GRUMA laid out in this document shall be conclusive in the event of infringement of property rights or copyrights. This is only the case if

- a) the Customer informs GRUMA immediately of any claims of infringements of industrial property rights or copyrights,

- b) the Customer supports GRUMA to a reasonable extent in the defence against the claims asserted or allows GRUMA to carry out the modification measures described above,
 - c) GRUMA reserves the right to all defensive measures, including out-of-court settlements, and
 - d) the defect of title does not result from an instruction from the Customer.
- 9) In the event of an entrepreneur's recourse, it shall be presumed that there were no defects at the time of the transfer of risk to the Customer if the Customer has dutifully inspected the Goods in accordance with this Section IX. but has not notified any defects in writing and in due time, unless such presumption is incompatible with the nature of the Goods or the defect. If the Customer asserts recourse claims, the Customer shall be treated by GRUMA as if he/she had implemented all legally permissible contractual options vis-à-vis his/her Contractual partner (such as refusal of subsequent performance due to disproportionality or limitation of the reimbursement of expenses to a reasonable amount) in order to minimise the actual and financial expense of the contractual partner's warranty rights. Claims arising from entrepreneur's recourse are excluded if the defective Goods have been further processed by the Customer or another entrepreneur, e.g. if they have been assembled into another product. Claims under a right of recourse shall only exist if the Customer has not entered into any agreements with his/her customers that go beyond the statutory rights in respect of defects.

If the entrepreneur's recourse results from the final delivery of the Goods to an entrepreneur, GRUMA shall only be liable for intentional and grossly negligent conduct; Clause XI.5. of these GTS shall apply accordingly.

In all cases, the special statutory provisions on the reimbursement of expenses for the final delivery of the newly manufactured Goods to a consumer (entrepreneur's recourse pursuant to §§478, 445a, 445b or §§445c, 327 para. 5, 327u of the German Civil Code [BGB]) shall remain unaffected, unless an equivalent compensation has been agreed.

- 10) Provided that the Goods are equipped with a suitable and operational receiving device, GRUMA shall be entitled to eliminate defects in the Good's software by remote access by setting up a radio connection ("over the air"). This also applies to updates of the corresponding software. A restriction of functionality occurring during this process shall not be considered a defect.

X. Withdrawal or Reduction Rights of the Customer

- 1) The Customer may withdraw from the contract if GRUMA is unable to provide the complete service before the transfer of risk. In the event that GRUMA is visibly only temporarily prevented from performance, the Customer shall only be entitled to withdraw from the contract if GRUMA does not deliver within a reasonable period of time after resolving the cause of the inability to perform.
- 2) The Customer may also withdraw from the contract if, following an order for Goods of the same kind, the execution of part of the delivery becomes impossible due to insufficient quantities, and

the Customer has a legitimate interest in refusing a partial delivery. If this is not the case, the Customer is entitled to reduce the compensation accordingly. Statutory provisions shall be observed when determining the reduction in value. The only decisive criterion for the reduction in value shall however be the Customer's interest.

The Customer shall remain obliged to provide compensation in the event that the impossibility occurs during the delay in acceptance or if it is caused by the Customer.

- 3) The Customer also has the right to withdraw from the contract if
 - a) GRUMA lets a reasonable period, defined in writing, for subsequent performance due to a defect expire fruitlessly within the meaning of these GTS. This period for subsequent performance shall be set in such a way that it takes into account any ordering and delivery periods for necessary spare parts for carrying out the rectification or
 - b) if the subsequent performance has definitely failed, with at least two attempts having been granted.

In the aforementioned cases, the Customer may at his/her discretion declare a corresponding reduction of the purchase price instead of withdrawing from the contract.

- 4) If, following completion of the subsequent performance, there are still insignificant defects, which can be assumed if the Goods are still suitable for the intended use, the Customer's right of withdrawal is excluded. In this case, the Customer shall be entitled to assert his/her right of reduction. Statutory provisions shall be observed when determining the reduction in value. The only decisive criterion for the reduction in value shall however be the Customer's interest.
- 5) The Customer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if GRUMA is responsible for the breach of duty. A free right of termination of the Customer (in particular according to §§ 650, 648 BGB) is excluded. The statutory requirements and legal consequences shall otherwise apply.

XI. Liability

- 1) GRUMA shall be liable for damages – regardless of the legal reason – within the scope of fault-based liability in the event of intent and gross negligence. In the event of simple negligence, GRUMA shall only be liable, subject to statutory limitations of liability (e.g. Own personal interest; insignificant breach of duty),
 - a) for damages resulting from injury to life, body or health,
 - b) for damages arising from the breach of a material contractual obligation (i.e. an obligation which must be fulfilled to even make proper performance of the contract possible and which the contractual partner shall and may expect to be fulfilled); in this case, however, GRUMA's liability shall be limited to compensation for foreseeable, typically occurring damage.
- 2) The limitations of liability resulting from Clause XI.1. do not apply if the Customer has fraudulently

concealed a defect or assumed a guarantee for the quality of the Goods (in which case liability is limited to the extent to which the guarantee of quality was intended to protect the Customer against the specific damage that occurred), as well as for claims of the Customer under the Product Liability Act (PHG).

- 3) There shall be no reversal of the burden of proof associated with the above provisions.
- 4) Further claims, in particular claims for indemnification and for compensation for indirect or consequential damages, are excluded subject to the cases in Clauses XI.1. and XI.2. of these GTS.
- 5) The limitations of liability resulting from this Section XI. shall also apply to breaches of duty by persons (including for their own benefit) for whom GRUMA bears responsibility according to statutory provisions, as well as towards legal representatives and vicarious agents of the Customer.

XII. Licence

- 1) The software ("Embedded Software") contained in the Goods, if any, and its documentation, including without limitation all copyrights, patents, trademarks, trade secrets and other intellectual property rights, are and shall remain the sole and exclusive property of GRUMA or its licensors. The software is licensed and not sold. GRUMA grants the Customer a revocable, non-exclusive, non-transferable licence to use the software and the associated documentation. This licence is granted solely for the use of the Goods. If the Customer is a reseller, the Customer shall be permitted to sublicense within the scope of resale.
- 2) Any independent software products ("Standalone Software") distributed are subject to separate licence conditions, which are disclosed separately and take precedence over this Section XII.
- 3) The Customer shall not, either himself/herself or by granting permission to third parties, (i) copy or use the software for purposes other than those permitted under Clause XII.1. or in a separate licence agreement; (ii) modify any part of the software, create derivative works from it, disassemble, decrypt, decompile or reverse engineer it to the extent that applicable laws provide otherwise; and/or (iii) remove, alter or obscure property notices (including copyright or trademark notices) of GRUMA, its affiliated companies (§§15 et seq. of the German Stock Corporation Act [AktG]) or its suppliers. The software is provided to the Customer in its current condition and without assurance of continuous availability and, unless otherwise agreed in writing, without the provision of updates and with all possible errors and defects it may contain.

XIII. Data Protection

The Parties shall comply with the applicable data protection laws and process personal data in accordance with these in order to achieve the purpose of the contract and to provide the services owed under the contract. Further information on the handling of personal data and on the topic of data protection can be found at <https://www.gruma.de/agb>. Complementary information and agreements may become necessary for certain products and will be communicated prior to any data processing.

XIV. Use of Data

Additional contractual conditions shall apply if the contractual product is equipped with a telematics unit in order to transmit basic vehicle data (serial number, KCU security code, country code, hardware version, software version) to GRUMA. These conditions can be obtained by writing to info@gruma.de. Basic vehicle data is collected and used for the operation of the vehicle. Additional services that require further data retrieval can be agreed upon. Personal data is subject to separately notified data processing provisions.

XV. Confidentiality

- 1) The Customer shall keep all information of which he/she becomes aware over the course of the contractual relationship with GRUMA (the “**Contractual Relationship**”), including prices, illustrations, plans, drawings, calculations, implementation instructions, product descriptions and other information on inventions, ideas, concepts, drafts and designs (hereinafter collectively referred to as “**Information**”) strictly confidential and shall not disclose such Information to third parties, even if a corresponding non-disclosure agreement has been concluded with such third parties.

The German Act on the Protection of Business Secrets (GeschGehG) shall apply mutatis mutandis, whereby all information made known to the Customer within the framework of the contractual relationship shall be deemed to be a business secret, taking into account Clause XV.3. of these GTS. The Customer shall conclude suitable contractual agreements to ensure that his/her employees and vicarious agents subject to the contractual relationship are also obliged to maintain secrecy in accordance with the provisions of this Section XV. The Customer shall also provide GRUMA with written proof of this upon request.

- 2) The Customer shall use information only for the purposes of the respective contractual relationship, and not to exploit it commercially or to make it the subject of industrial property rights.
- 3) The above obligations shall not apply to information which the Customer can prove was lawfully known to him/her prior to receipt by GRUMA, which was available to the public prior to receipt by GRUMA, which becomes available to the public after receipt by GRUMA with no responsibility on the part of the Customer, and to information which is made available to the Customer at any time by a third party authorised to do so to the best of the Customer’s knowledge. Finally, the above obligations shall also not apply if the Customer is legally obliged to disclose information in judicial, official or other proceedings.
- 4) The Customer shall not make reference to existing business relationships with GRUMA for advertising purposes.
- 5) This obligation to maintain secrecy shall apply with its restrictions for a further ten years beyond the time of mutual fulfilment of the contract concluded between GRUMA and a Customer, unless statutory regulations require a further-reaching obligation to maintain secrecy.

XVI. Applicable law; Place of Jurisdiction and Place of Fulfilment

- 1) The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and private international law.
- 2) The place of jurisdiction for all disputes arising directly or indirectly from the contract, including for proceedings for the issuance of a seizure or a temporary injunction, shall be the registered office of the GRUMA company concluding the contract (GRUMA Nutzfahrzeuge GmbH: Friedberg; GRUMA Fördertechnik GmbH: Garching b. München). This shall not apply in cases where an exclusive place of jurisdiction has been named. GRUMA shall also be entitled to choose the court having jurisdiction over the Customer.
- 3) The place of fulfilment for the liabilities of the Parties shall be the selected Delivery Works or the registered office of the GRUMA company concluding the contract (GRUMA Nutzfahrzeuge GmbH: Friedberg; GRUMA Fördertechnik GmbH: Garching b. München), unless GRUMA and the Customer have agreed in writing on a different place of fulfilment.

Status as of 02/2023