



General Terms and Conditions for the Sale of Spare Parts by Noell Mobile Systems GmbH or Noell Crane Systems GmbH

§ 1 General – Scope

1. The following conditions apply for all contracts concluded electronically, by telephone, in writing or verbally regarding the sale of goods between us and the customer, as far as he is an entrepreneur in terms of the German Civil Code (“BGB”), a public law entity, or a special property under public law. These Conditions shall not apply for the sale of Straddle Carriers. Applicable in each case is the effective version of these conditions at the time of the conclusion of the contract.
2. Deviating, contrary or additional general terms and conditions of the customer, even if known, will not become an integral part of the contract, unless we have explicitly agreed to their application in writing.

§ 2 Conclusion of the Contract

1. The terms for our goods are subject to change without notice and not binding. Our description of goods in the Internet does not constitute an offer, but is a not binding invitation to the customer to place an order. Technical as well as other changes of form, colour or weight are reserved within the scope of reasonableness.
2. For orders placed by customer in our Web-Shop:
 - a) With the online order („Order“) of the desired goods the customer declares his binding offer of contract. The customer is bound to his offer of contract for one (1) month starting with receipt by us.
 - b) We automatically confirm the receipt of the Order via email. The confirmation of receipt does not constitute the acceptance of the Order. It is merely a confirmation regarding the receipt of the Order.
 - c) After receipt of the Order we will verify the availability of the goods. It is our liberty to accept or reject the offer. Acceptance takes place through confirmation of the Order by us.
3. For orders placed by customer outside our Web-Shop:
 - a) Our offer is subject to change without notice, unless otherwise stated in the offer.
 - b) Customer is bound to his contract offer for one (1) month starting with receipt by us.

§ 3 Reservation of Title

1. We retain the title of the goods until complete settlement of all claims arising from the current business relationship. In case the value of the reserved goods exceeds the total value of all secured claims out of the current business relationship by 10%, than we are obliged, at the request of the customer, to release the reserved goods.
2. Customer is obliged to handle the goods with all due care during the existence of the reservation of title. He especially is obliged to sufficiently insure the goods to the replacement value at his own cost against fire, water and burglary damages and to adjust his third party liability. As far as maintenance and inspection work is necessary the customer has to carry these out at his own cost on a regular basis. Customer already now assigns to us all claims out of the insurance contract respectively against any injuring party. We accept this assignment. We are entitled to request the submittal of evidence of the existence of insurance coverage. Payment of compensation, which we receive out of aforementioned insurances and/or from third parties, will be credited against performances to be rendered by the customer.



Customer shall immediately notify us in writing about any seizure of third parties to the goods, especially of execution procedures, as well as of any damages or loss of goods. Customer also shall promptly notify us in case of change in ownership of the goods as well as his own change of address.

Customer has to compensate us all damages and costs, which result from breach of this obligation and for necessary intervention measures against seizure of goods by third parties.

3. In the event of behaviour not in conformity with the contract by customer, especially in case of delay in payment, we are entitled to withdraw from the contract and to demand recovery of goods. Aside from this we are entitled to withdraw from the contract in case of breach of section 3 number 2 and to request recovery of the goods, if adherence with the contract is not reasonable to us. The right to claim for damages remains unaffected hereby.
4. Customer is entitled to resale the goods in the ordinary course of business. He hereby assigns already now to us any claims amounting to the amount invoiced against third parties resulting from the resale. We accept the assignment. After the assignment customer is entitled to collect the claim. We reserve the right to collect the claim by ourselves once customer does not fulfil its payment obligations and falls into delay in payment.
5. Processing of the goods by the customer shall be always carried out in our name and on our behalf. If the processing of the goods is carried out, we gain co-ownership on the new object pro rata the value of the goods delivered by us to the other processed objects. The same applies if the goods are mixed with other objects not belonging to us.
6. As far as we are entitled to execute the reservation of title, the customer will give us unlimited and irrevocable access to his business respectively factory premises during normal business hours for the purpose of pick-up of the goods.

§ 4 Compensation

1. The price stated in our order confirmation is binding. The price is quoted plus packaging and shipping costs, unless otherwise agreed. The Sale is carried out as sale by delivery to a place other than the place of performance, unless otherwise agreed. We therefore commission a carrier. Packaging and shipping costs will be shown separately in the invoice. We are entitled to carry out reasonable partial deliveries and partial performances and to invoice these separately.

In the event of special offers, the offered price determinable applies for the time of the special action.

Our prices do not include value added tax or comparable taxes of other countries. Such has to be reimbursed in addition in the statutory amount at the time of performance (execution of performance) and will be shown separately in the invoice. Unless otherwise agreed, customer is responsible for customs handling and for payment of other taxes, tolls, duties and fees.

In case of orders by means of telecommunication, no further costs occur for customer, besides the normal phone and online fees.

Customer has to make payments to our account as stated in the invoice by way of bank transfer – free of charge for us -.

According to customer's respective creditworthiness, we reserve the right to carry out the order only against advance payment. In such case we will send the goods after receipt of payment by us.

Payment of the goods by sending of bar money or checks is unfortunately not possible. We exclude liability in case of loss.

2. Our claim for compensation arises with conclusion of the contract. Customer is obliged to pay the compensation within fourteen (14) calendar days after shipment without any deductions, unless otherwise agreed or advance payment has been demanded by us. Customer falls in delay in payment after this deadline expires or if he misses a deadline set by us in case of prepayment.

In cases of non payment, customer falls into delay with payment at the latest thirty (30) days after due date and receipt of invoice or an equivalent payment schedule. Section 286 paragraph 3 sentence 2 German Civil Code (BGB) remains unaffected.



During the delay in payment, customer has to pay interest on the money-debt in the amount of eight (8) percentage points over the current respective base rate. We reserve the right to establish and assert higher default interest damage. Further claims for damages remain unaffected hereof.

In cases of prepayment we will deliver the goods after receipt of payment by us.

3. Customer shall only have a right of set-off, if his counterclaims have been legally binding established or acknowledged by us.

Customer is only entitled to exercise a right of retention, if his counterclaim results from the same contractual relationship.

§ 5 Passing of the Risk

1. The risk of accidental loss and of accidental deterioration of the bought goods shall pass to customer with delivery of the goods to the carriers or the otherwise for the accomplishment of the delivery appointed person or institution. In the event something other than sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the bought goods passes to the customer with handing over.

Handing over shall also be on hand, if customer is in delay with acceptance.

2. In case of download and dispatch of data via Internet, the risk of loss and alteration of data passes to customer with crossing of our network interface.

§ 6 Warranty

1. For defects of the goods, we provide warranty at our discretion by remedy of the defect or replacement.
2. For examination, whether a defect is existent, customer shall at our request send back the goods free of charge for us. Provided that a defect is actually existent, we will reimburse the shipping costs to the customer. Otherwise customer has to compensate us the costs for examination and reshipment.
3. A warranty obligation does not exist, if the defect is irrelevant for the interest of the customer, if it refers to normal wear and tear, or if it is based on circumstances, which are attributable to the customer.
4. If supplementary performance fails, the customer shall basically be entitled at his discretion to a reduction of the compensation ("Reduction") or rescission of the contract ("Rescission") as well as to claim for damages. Customer shall not have a right to withdraw from the contract in case of marginal defects.

If customer chooses to claim for damages, the limitation of liability according to section 8 paragraph 1 of these conditions shall apply. In case of fraudulent concealment of defects or acceptance of a guarantee for the condition, further claims remain unaffected.

5. Customer has to immediately examine the goods supplied with regard to variation in quality and quantity and has to notify us immediately in writing of any visible defects, otherwise the assertion of a warranty claim is excluded. Hidden defects have to be notified to us in writing immediately upon discovery. For the observing of the time limit, the timely dispatch is sufficient. Burden of proof is incumbent on the customer for all conditions of claim, especially for the defect itself, for the time of detection of the defect and for timeliness as well as the receipt of the notice of defect.
6. The limitation period for warranty claims is one (1) year starting with delivery of the goods. The one-year limitation period does not apply in case of gross negligence or intent by us as well as in case of injury to body, health or life attributable to us. Our liability according to the Product Liability Act ("Produkthaftungsgesetz") remains unaffected.
7. Unless explicitly otherwise agreed in writing, we do not give any guarantees in the legal sense to the customer. Manufacturer guarantees of third parties remain unaffected hereof.



§ 7 Time for Delivery

1. Any specifications regarding times of delivery are not binding.
2. The agreement of a binding delivery time requires a written confirmation by us clearly indicating „binding delivery time“.
3. The binding time of delivery is observed, if the goods are ready for handover by the time of its expiry to either the carrier or in case of agreement deviating from the sale by delivery to a place other than the place of performance, to the customer or a third party nominated by the customer.
4. In the event the delivery is delayed due to labour disputes, especially strike and lockout, as well as occurrences of circumstances for which we are not responsible for and as far as such hindrances are demonstrable of considerable influence to the delivery, then an adequate extension of the possible agreed time for delivery takes place. The same shall apply if such circumstances occur after we are in default.
5. In the event of claims of the customer arising due to delay on our part which have been caused by slight negligence, our liability is limited to five (5) % of the commodity price. Furthermore section 8 paragraph 1 of these conditions shall apply. If customer in the event of our delay grants an adequate period of time for delivery and if this period of time is not kept or a setting of a deadline is not required according to statutory exceptional cases, then customer is within the scope of the statutory provisions entitled to a rescission. For further claims, section 8 paragraph 1 of these conditions shall apply.

§ 8 Our Liability, Exclusion of Liability

1. In any case, we are liable
 - in case of intent,
 - in case of gross negligence or our proprietor/our organs or our executives,
 - in case of culpably injury to life, body or health,
 - in case of defects, which we have fraudulently concealed or whose absence we have guaranteed and
 - as far as the Product Liability Act (Produkthaftungsgesetz) imposes liabilities.

In case of culpable breach of essential contractual obligations we are also liable in case of gross negligence of non-executives and in case of slight negligence. In case of the latter limited to the contractual typical, reasonably foreseeable damage. For the rest, claims of the customer for compensation of direct or indirect damages irrespective of the legal grounds including any claims for damages due to breach of precedent contractual obligations and due to tort are excluded.

2. As far as we enable with links on our website access to other websites, we are not responsible for the there contained external content. We do not adopt these external contents. In case we become aware of illegal contents on external websites we will immediately remove the link to these external websites.
3. As far as we enable on our server the up and down load of data files we will take care within the bounds of reasonableness that the loaded data files or software are not inflicted with viruses. Customer has to take care by himself to protect himself against other attacks, e.g. through the installation of a firewall etc.

§ 9 Data Protection

1. With our data protection information we inform our customers about:
 - kind, scope, duration and purpose of elicitation, handling and utilization of personal data necessary for the execution of the order and invoicing;



- his right of objection to generation and utilization of his anonymous user profile for the purpose of advertisement, market research and for the required presentation of our Web-Shop;
 - passing of data to companies commissioned by us and obliged to observe the statutory data protection provisions for the purpose and duration of evaluation of creditworthiness as well as shipping of the goods;
 - the right to receive gratuitous information of his personal data recorded by us;
 - the right of correction, deletion and blocking of his personal data recorded by us.
2. Elicitation, handling and utilization of personal data for marketing purposes require consent of customer. The customer has the possibility to give this consent prior to the statement of order. The customer has the right to revoke the consent at any time with effect to the future.

§ 10 Miscellaneous

1. German law shall apply, excluding such provisions of its rules on conflicts of law, which would refer to any other law than law of Germany. The Convention of the International Sale of Goods (CISG) shall be excluded.
2. Place of jurisdiction for all disputes arising from the contract with the customer shall be Würzburg, Germany. However, we shall also be entitled to sue the customer at any other statutory place of jurisdiction.
3. Should any provision of the contract with the customer including these conditions be or become wholly or partially invalid, the validity of the remaining provisions shall not be affected. The wholly or partially invalid provisions shall be replaced by a provisions, which comes as close as possible to the economic purpose and effect of the invalid provision.
4. For customers having the place of business in German speaking countries, also German is considered as contractual language besides English.



Appendix 1

Data Protection Information

In case of a conclusion of the contract, we will collect and process your provided personal data in our system and will use such for the duration of contract execution, that is for order transaction as well as invoicing. Personal data is all information, because of which you can be identified directly or indirectly, e.g. name, place of business, e-mail address, account relationship etc.

For the purpose of advertising, market research as well as the required presentation of our offer, we generate and use anonymous user profiles. Against this, you have a **right of objection**, which you can exercise at any time by sending an E-Mail to info@noellmobilesystems.com with the subject „Objection to consent for generation of an anonymous user profile“.

We inform you gratuitous of any of your personal data recorded by us.

You can request at any time a correction, deletion or blocking of your personal data recorded by us.

For the purpose and duration of shipping the goods, we pass your therefore necessary personal data to the commissioned carrier.

We use so-called Cookies for system-based identification of your user. Therefore you have to allow the work with Cookies within your browser for a complete use of our Web Shop.

Appendix 2

Data Protection Consent

Herewith we agree that the generating, processing and use of personal data, which we have provided in the order form, by Noell Mobile Systems GmbH can take place for the purposes of its own marketing towards us as customers, among others by installation of a customer database.

We can revoke this consent at any time with effect for the future.

Appendix 3

Information by way of electronic business connection

Further customer information for the electronically conclusion of the contract

The following information for online contracts does not constitute contract provisions. The contract provisions are contained in our General Terms and Conditions (Link).

1. How does the online contract conclusion work?

Visit our Online Web Shop under the following URL: <https://www.noellmobilesystems.com/en/catalog-of-spare-parts.191.html>.

Click on „Create a new Account“ to create a personalized access to the system by providing the required information in the following entry mask. Click on „Submit“ at the bottom of the page to submit your application to us. After receipt and evaluation of your application your Web Shop Account will be released and an automatic notification hereof will be sent to the E-Mail address provided by you. Now you can log on to the Online Web Shop of NMS.

To safeguard a maximum on security, all submissions and disbursements of our Web Shops are transmitted over encrypted connection (HTTPS).

After the successful log on to the Web Shop you will see your personal menus in the left menu bar. Here you can view the personal data recorded in our system as well as the standard addresses to your user and can change or add addresses. Under „My Orders“ you can also find a history including status information regarding already placed orders.



In the main window „Spare Parts Search“ of the page „Catalog“ you have the possibility, to search and order spare parts based on your part number. You can find the part number most certain on the CD „Noell Mobile Systems Spare Parts List“, which has been supplied to you with delivery of the machine.

In the event you do not have the part number enter „00“ in the search window and click on „Go“. In the following list „Search Results“ you now can see, that this part is listed as so-called „Unknown Part“. In the course of the order you can specify this by entering further details (e.g. Noell Serial Number, Noell Order Number or a free text information), so that the NMS-person in charge can prepare a respective offer. Instructions for this can be found further down in the text.

A maximum of 15 different parts can be researched per search action. If you would like to order more than 15 parts you have to add the parts from the “Search Results” to the cart by clicking on „Add to cart“ and you have to select within the cart the option „Continue Shopping“. Now you can start another search.

The cart is partitioned in four sections.

- First the available parts of your order are reported. For this enter the desired quantity and click on „Refresh“. In case the desired quantity exceed the available quantity, the difference will automatically be transcribed to the lower section „Currently out of stock“ and you will receive from the person in charge the information regarding the estimated delivery time of the remaining quantity.
- In the second section you have to select a method of delivery (standard or express) for the available quantities.
- In the third section you can view all parts “Currently out of stock”. Please also check here the desired quantity and perhaps provide the Noell Serial number of your machine to the person in charge.
- „Unknown Parts“ are listed in the fourth section. These parts could not be identified by our system based on the part number entered by you. Please try to provide us as much part specifying information as possible, e.g. Noell Serial Number (this can best be found on the sticker in the operator cabin of your Straddle Carrier) or the Noell Order Number (this can be found on your CD „Noell Mobile Systems Spare Parts List“) or a free text information for detailed description of the part and its location on the machine. Our person in charge will submit then a respective offer to you.

In order to delete a position from the cart, please klick on the trash symbol in front of it.

If you have executed all necessary changes in your cart, click on „Refresh“.

Review again all data and click on „Next“.

Now you are getting to the General Terms and Conditions of Noell Mobile Systems GmbH. Please read these carefully and confirm them afterwards by clicking on „Accept“.

In the following frame you can view the addresses for your user stored by the system. Please select the desired address or add a further address if applicable.

You can provide us with your internal reference number to this order in the lower part of the frame in field „Your internal reference ID“. It then will be stated in further communication. Now click first on „Refresh“ and after you again reviewed your data click on „Continue“. Afterwards, a summary of your order and your data will be presented to you. Click on „Place Order“ to submit your order to Noell Mobile Systems GmbH.

An overview of your order will be sent to our person in charge as well as to the E-Mail address provided by you.

2. Storage of the wording of the contract and access for customer

We store your order data and sent you these together with our General Terms and Conditions upon request after conclusion of the contract via E-Mail.

3. Input data Error

You can correct your inputs during the order process at any time by clicking the button „delete“ or „change“. You can cancel the complete order transaction at any time per mouse click on „cancel“.

4. Contractual Language

Contractual language is English. Customers having their place of business in German speaking countries give their consent, that irrespective of the English language used in our Web-Shop also German is considered as contractual language.