

## General terms and conditions of ABT Sportsline GmbH (issue date: 24/10/2019)

### § 1 Scope

1. The following terms and conditions of ABT Sportsline GmbH, Johann-Abt-Straße 2, 87437 Kempten, registered in the commercial register of AG Kempten under HRB 4448, represented by the organ (hereinafter referred to as ABT Sportsline) exclusively apply to all contracts concluded by the Customer with ABT Sportsline in the areas of engine technology, suspension and exhaust technology for vehicles of the brands Audi, VW, Seat and Cupra. The inclusion of the Customer's own terms and conditions, insofar as the Customer is a special fund under public law or an entrepreneur, is hereby rejected, unless expressly agreed otherwise. For the purposes of these General Terms and Conditions and with reference to § 14 of the German Civil Code (BGB), an entrepreneur is any natural or legal person or a partnership with legal capacity who/which, upon conclusion of a legal transaction, acts in the exercise of his/her/its independent professional or commercial activity.
2. In each case, the valid General Terms and Conditions as amended at the time of conclusion of the contract shall apply.
3. These General Terms and Conditions shall be considered an integral part of the contract, unless otherwise agreed in an individual agreement concluded between ABT Sportsline and the Customer in text form in accordance with 126 b BGB. Individual agreements concluded between ABT Sportsline and the Customer always have priority, however they are subject to the text-form requirement in accordance with § 126 b of the German Civil Code (BGB) to be effective.
4. Amendments and supplements to the contract must be made in text form.
5. The valid General Terms and Conditions can be viewed at any time on the ABT Sportsline website at [www.abt-sportsline.de](http://www.abt-sportsline.de) as a version that can be stored and printed out and is available free of charge.
6. Individual agreements concluded between ABT Sportsline and the Customer always have priority, however they are subject to the text-form requirement in accordance with § 126 b of the German Civil Code (BGB) to be effective.
7. For legal transactions with customers who order via the online shop "www.abt-shop.de", the applicable General Terms and Conditions for online business apply exclusively.
8. In the case of legal transactions with customers involving the sale of used vehicles with ABT Sportsline, the ABT Sportsline conditions of sale for the sale of used vehicles apply exclusively.

## § 2 Conclusion of contract

1. Deliveries and services as well as other legal transactions with customers within the scope of all business transactions of ABT Sportsline are exclusively subject to the following General Terms and Conditions as amended and are considered an integral part of the contract, unless otherwise agreed in writing by means of an individual agreement between ABT Sportsline GmbH and the Customer.
2. Changes and additions to the contract require the text form pursuant to § 126 b of the German Civil Code (BGB).
3. Offers by ABT Sportsline, including those on its website, are subject to change and non-binding, unless expressly agreed otherwise. Drawings, illustrations, descriptions, dimensions, weights or other performance data (such as speeds) are only binding if this has been expressly agreed in writing.
4. Reasonable technical and design deviations from the information conveyed in brochures, catalogues and written documents as well as model, construction and material changes in the course of technical progress and further development are reserved, whereby no right to assert claims against ABT Sportsline may be inferred, in particular to the extent that orders in the areas of engine technology, chassis and exhaust technology, which depend on vehicle-specific data, are affected.
5. Contracts between ABT Sportsline and the Customer shall be concluded once an offer has been sent by ABT Sportsline and accepted by the Customer in text form in accordance with § 126b of the German Civil Code (BGB) or upon delivery of the purchased item by ABT Sportsline.
6. In the case of a cost estimate prepared by ABT Sportsline, the services rendered may be charged to the Customer if this has been agreed upon in individual cases. If an order is placed on the basis of this cost estimate, any costs associated with submitting the cost estimate shall be offset against the order invoice.

### § 3 Right of withdrawal for consumers

1. If the Customer is a consumer within the meaning of § 13 of the German Civil Code (BGB), he has a statutory right of withdrawal within a period of 14 days. According to § 13 of the German Civil Code (BGB), a consumer is any natural person who concludes a legal transaction for purposes which cannot be attributed predominantly to either his commercial or his independent professional activity.
2. In accordance with § 312g (2) of the German Civil Code (BGB), the right of withdrawal does not apply to contracts for the delivery of goods which are not prefabricated or for whose manufacture an individual selection or determination by the buyer is decisive or which are clearly tailored to the personal needs of the buyer (No. 1). A right of withdrawal also does not exist for contracts for the delivery of goods if these have been inseparably mixed with other goods after delivery due to their nature (No. 4).
3. In the event of withdrawal, the Customer shall pay compensation for loss of value if the loss of value is due to handling of the goods that was not necessary for the purpose of testing the condition, properties and functionality of the goods.

**If a legal right of withdrawal exists, the Customer shall be informed about this right of withdrawal in the following:**

#### **Right of withdrawal**

You have the right to withdraw from this contract within 14 days without providing any reason.

The withdrawal period is 14 days from the day

- upon which you or a third party designated by you, other than the carrier, have taken possession of the goods; or
- if you have entered into a contract for several goods which you have ordered within the framework of a common order and which are delivered separately, for which you or a third party other than the carrier designated by you have taken possession of the last goods.
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To exercise your right of withdrawal, you must contact us (Abt Sportsline GmbH, Johann-Abt-Straße 2, 87437 Kempten, telephone: +49 (0) 831 / 57140-0, fax: +49 (0) 831 / 72666, email: [info@abt-sportsline.de](mailto:info@abt-sportsline.de)) of your decision to withdraw from this contract by means of a clear declaration (e.g. a letter sent by post, fax or e-mail).

You may use the attached withdrawal form template, but this is not essential.

You can also electronically complete and submit the withdrawal form template or another clear declaration on our website <https://www.abt-sportsline.de> . If you make use of this option, we will immediately send you (e.g. by email) a confirmation of receipt of such a withdrawal.

In order to comply with the withdrawal period, it is sufficient that you send the notification about the exercise of the right of withdrawal before the expiry of the withdrawal period.

### **Consequences of withdrawal**

If you withdraw from this contract, we shall refund all payments we have received from you, including delivery costs (with the exception of additional costs arising from the fact that you have chosen a type of delivery other than the cheapest standard delivery offered by us), without undue delay and no later than 14 days from the day on which we received the notification of your withdrawal from this contract. For this refund, we will use the same means of payment that you used in the original transaction, unless you have expressly agreed otherwise. In no case will you be charged any fees for this refund.

We may refuse reimbursement until we have received the goods back or until you have provided proof that you have returned the goods, whichever is the earlier.

You must return or hand over the goods to us without undue delay and in any event no later than 14 days from the day on which you inform us of your withdrawal from this contract. The deadline is met if you send the goods before the expiry of the 14-day period.

You shall bear the direct costs of returning the goods. The costs are estimated at a maximum of about €100.

You will only be liable for any loss in value of the goods if this loss in value is due to the handling of the goods in a way which is unnecessary to verify the nature, characteristics and functioning of the goods.

### **End of the withdrawal policy**

#### **§ 4 Completion or delivery terms**

1. ABT Sportsline shall comply with a completion deadline for the order that is designated as binding for the Customer in text form in accordance with § 126 b of the German Civil Code (BGB). In the case of a delivery, the agreed delivery deadline shall be deemed to have been met if the contractual product is handed over to the carrier by the agreed delivery deadline.
2. If the scope of work changes or expands compared to the original order and a delay occurs as a result, ABT Sportsline must immediately state a new completion deadline, stating the reasons. If the dispatch of goods is delayed for reasons for which ABT Sportsline is not responsible, the contractual products may be stored at the expense and risk of the Customer.
3. In particular, ABT Sportsline expressly reserves the right to carry out reasonable partial deliveries/services and to invoice for them.
4. The delivery or service date for the order and the delivery or service deadline for the order shall be agreed in accordance with the expected capacity of ABT Sportsline and are non-binding and subject to unforeseen circumstances and obstacles, regardless of whether these occur at ABT Sportsline or the manufacturer, in particular force majeure, government measures, failure to obtain official permits, industrial disputes of any kind, sabotage, lack of raw materials, and/or delayed deliveries of materials through no fault of ABT Sportsline. Such events shall extend the delivery or service deadline accordingly, even if they occur during a delay that has already occurred. In this case, any grace period set by the Customer shall also be extended by the duration of the unforeseen event. ABT Sportsline is in particular not obliged to provide a replacement vehicle or to reimburse costs for the actual use of a rental vehicle in the event of such delays. However, ABT Sportsline is obliged to inform the Customer about the delays as far as this is possible and reasonable. If such events lead to a delay in performance of more than two months, the Customer may withdraw from the contract – without prejudice to any other rights of withdrawal.
5. The risk of accidental loss and accidental deterioration of the goods shall pass to the Customer upon delivery of the goods to the forwarding agent, the carrier or any other person designated to carry out the shipment.

6. The packaging costs are included in the shipping costs for deliveries of goods. ABT Sportsline will take back any packaging free of charge within Germany.

### **§ 5 Place of performance**

1. Unless otherwise agreed, the place of performance for services is the workshop of ABT Sportsline GmbH in Kempten. The Customer shall bring the ordered items to the place of performance at its own expense by the agreed date.
2. Unless otherwise agreed, rework or repairs shall be performed exclusively at the workshop of ABT Sportsline GmbH in Kempten. If the Customer is a special fund under public law or an entrepreneur within the meaning of § 1 (1) of these General Terms and Conditions, the transport and travel costs shall be charged to the Customer.

### **§ 6 Acceptance or receipt**

1. The Customer shall accept the ordered items or collect the ordered items within one week of receipt of the notification of completion and handover or issue of the invoice. In the event of non-acceptance of the ordered items, ABT Sportsline is entitled to assert its legal rights. In the case of services which are carried out by ABT Sportsline within one working day, the aforementioned period shall be reduced to two working days.
2. In the event of a delay in acceptance, ABT Sportsline is entitled to charge the general fee that is customary for the location. The costs and risks of storage shall be borne by the Customer.

### **§ 7 Technical acceptance and registration**

After the technical acceptance (TÜV, Dekra or others) the Customer is obliged to immediately have the technical change entered in the vehicle documents by the competent licensing authority.

ABT Sportsline also recommends that the Customer inform the motor vehicle insurer of the changes to the vehicle.

### **§ 8 Implementation of orders**

1. The Customer expressly authorises ABT Sportsline to carry out test drives and transfer drives with the ordered items.

2. If necessary, ABT Sportsline will update the ordered items to the latest software version. As far as technically possible, vehicle data will be temporarily encrypted in this context. Irrespective of this, the Customer is strongly advised to back up data and individual settings in the vehicle in accordance with the operating instructions in order to prevent data loss. The software update may also lead to modifications in the design of functional characteristics.
3. Once the wheels have been fitted, the wheel bolts must be retightened after 50 to 100 km.
4. If the Customer wishes to pick up or deliver the vehicle, this shall take place at the Customer's own expense and risk. Liability in the event of fault on the part of ABT Sportsline remains unaffected.

### **§ 9 Spare parts**

Unless otherwise agreed when the order was placed, replaced parts shall become the property of ABT Sportsline.

### **§ 10 Retention of title**

1. All delivered items as well as installed accessories, spare parts and aggregates that have not become essential components of the ordered items shall remain the property of ABT Sportsline until all (including future) claims of ABT Sportsline arising from the business relationship with the Customer have been settled.
2. As long as the reservation of title exists, any changes to the detriment of ABT Sportsline, any sale, pledging, transfer by way of security or other transfer of the ordered items to third parties is not permitted without the written consent of ABT Sportsline. Nevertheless, the buyer hereby assigns its claims vis-à-vis third parties, which arise from the resale, to ABT Sportsline as security.
3. For the duration of the reservation of title, the Customer shall treat the ordered items with care, handle them carefully and keep them in perfect condition. ABT Sportsline must be notified immediately of any destruction, damage or seizure of the ordered items. In the event of seizure, the enforcement officer must also be informed immediately of the reservation of title and ABT Sportsline must also be informed immediately by handing over the documents necessary for an appeal. All expenses incurred in asserting ABT Sportsline's right of ownership shall be borne by the Customer.

4. If the Customer culpably defaults on payment despite being set a deadline, ABT Sportsline is authorised to collect the ordered items from the Customer. The return costs shall be borne by the Customer.

#### **§ 11 Liability for material defects, limitation period**

1. Insofar as defects are present, the Customer, being a public law special fund or entrepreneur within the meaning of § 1 (1) of these General Terms and Conditions, is entitled to the statutory warranty rights in accordance with the following provisions:

if only merchants are involved in the contract, §§ 377 et seq. German Commercial Code (HGB) shall apply. Defects in the ordered items must be described precisely by the Customer. The notification of defects must be made in text form in accordance with § 126 b BGB (German Civil Code), setting a reasonable deadline for the elimination of the defect.

If the object of the contract becomes inoperable due to a material defect, the provisions for consumers under §11.2 shall apply.

The Customer's right to assert claims due to material defects shall expire one year after delivery of the ordered items, unless otherwise agreed in the following paragraphs.

The Customer is not entitled to assert claims for material defects in the case of delivery of used goods.

The Customer's right to assert claims due to defects in the ordered items shall expire one year after the performance and its acceptance, unless otherwise agreed.

The aforementioned reduction of the limitation period and the following exclusion of liability shall not apply in the case of damages

- which are based on a grossly negligent or intentional breach of obligations on the part of the seller, its legal representatives or
- in the event of injury to life, body or health, or –
- for claims arising due to fraudulent concealment of a defect or lack of a feature for which ABT Sportsline has provided a warranty.

In this case, the legal regulation shall remain in force.

2. If defects exist, the Customer, being a consumer within the meaning of § 13 BGB, is entitled to assert its statutory warranty rights in accordance with the following provisions.

Defects in the ordered items must be described precisely by the Customer. The notification of defects must be made in text form in accordance with § 126 b BGB (German Civil Code), setting a reasonable deadline for the elimination of the defect.

If the ordered items become inoperable due to a material defect, the Customer may, with the prior consent of ABT Sportsline, also refer to another motor vehicle repair shop; preferably an authorised brand partner of ABT Sportsline. In this case, the order form shall state that the repair of the defect shall be carried out by ABT Sportsline and that the dismantled parts must be kept available for ABT Sportsline for a reasonable period of time. ABT Sportsline is obliged to reimburse the Customer for any reasonable and proven repair costs.

The Customer's right to assert claims due to material defects shall expire two years after delivery of the ordered items in the case of delivery of new goods, unless otherwise agreed in the following paragraphs.

The Customer's right to assert claims due to material defects in the case of delivery of used goods shall expire one year after delivery of the ordered items, unless otherwise agreed in the following paragraphs.

The Customer's right to assert claims due to defects in the ordered items shall expire two years after the performance and its acceptance, unless otherwise agreed.

The above reduction of the limitation period and the following disclaimer do not apply to damages

- which are based on a grossly negligent or intentional breach of obligations on the part of the seller, its legal representatives or
- in the event of injury to life, body or health, or –
- for claims arising due to fraudulent concealment of a defect or lack of a feature for which ABT Sportsline has provided a warranty, or
- for claims under the Product Liability Act (Produkthaftungsgesetz). In this case, the legal regulation shall remain in force.

3. In the case of justified liability claims for material defects, ABT Sportsline shall choose between repair or replacement. The Customer is obliged to accept a replacement delivery against return of the defective goods. If ABT Sportsline fails to remedy defects within a reasonable period of grace set in text form in accordance with § 126 b of the German Civil Code (BGB), the contracting partner is entitled to demand either the cancellation of the contract or a reasonable cost reduction.
4. If ABT Sportsline is required to pay for damages caused due to slight negligence in accordance with the statutory regulations, ABT Sportsline's liability shall be limited as follows: Liability shall only exist in the event of breach of cardinal obligations, such as those which the contract is intended to impose on the seller/contractor in accordance with its content and purpose, or whose fulfilment is essential for the proper execution of the contract and on whose observance the Customer regularly relies and may rely. This liability is limited to the typical damage that was foreseeable at the time of conclusion of the contract. Insofar as the damage is covered by an insurance policy taken out by the Customer for the relevant case of damage (excluding insurance for a specified amount), ABT Sportsline is only liable for any associated disadvantages of the Customer, e.g. higher insurance premiums or interest disadvantages until the damage is settled by the insurance company. The personal liability of legal representatives, vicarious agents and employees of ABT Sportsline for damages caused due to slight negligence is excluded. For the aforementioned limitation of liability and the aforementioned exclusion of liability, § 11 (1) and (2) of these conditions apply accordingly.
5. Damage caused by insufficient or incorrect information provided by the Customer, by improper handling or excessive complaints by the Customer, by non-observance of the regulations regarding the handling, maintenance and care of the ordered items (e.g. operating instructions, service booklet, etc.) or by the fact that the Customer or third parties commissioned by the Customer have carried out changes or repairs to the ordered items without the approval of ABT Sportsline, is excluded from the vendor's liability for material defects.
6. Normal, customary wear and tear does not constitute a material defect and is therefore excluded from the warranty. In particular, damage caused through wear and tear due to above-average mileage (> 30,000 km/year) is also excluded from the warranty.

7. The parties are aware and agree that motorsport parts are short-lived, high-performance products that are not normally approved for use on public roads. In such cases, the general operating permit shall expire. ABT Sportsline does not guarantee – unless otherwise explicitly agreed – that the ordered items meet the requirements for road vehicles.

## **§ 12 Liability for other damages**

1. ABT Sportsline is only liable for simple negligence in the event of a breach of cardinal obligations. Cardinal obligations are those essential contractual obligations, whose breach jeopardises the purpose of the contract, or whose fulfilment makes the proper execution of the contract possible in the first place and on whose observance the contractual partner may regularly rely. In the event of a slightly negligent breach of cardinal obligations, the liability of ABT Sportsline shall be limited to compensation for typical damages that were foreseeable for ABT Sportsline at the time of conclusion of the contract. The amount of the claimed damages shall be limited to the foreseeable level as is typical for the contract. The damage caused to the Customer due to delay shall be limited to 5% of the purchase price. Otherwise, ABT Sportsline's liability for simple negligence is excluded.
2. The liability due to delay in delivery is conclusively regulated in § 4 (4) and (5) of these General Terms and Conditions. For other claims for damages asserted against ABT Sportsline, the regulations in § 11 (1) to (6) of these General Terms and Conditions (liability for material defects) shall apply accordingly.
3. Statements issued by ABT Sportsline in connection with the contract (description of services, reference to DIN) do not, in case of doubt, include the assumption of a warranty. The assumption of any warranty by ABT Sportsline requires an express written declaration to this effect.
4. Liability for the loss of money or valuables of any kind that are not expressly taken into safekeeping is hereby excluded.

## **§ 13 Prices, invoicing and payment**

1. The stated prices of ABT Sportsline are always net prices and do not include the respective statutory German value-added tax. The statutory German value-added tax that is valid at the time shall be added to these prices. The value-added tax to be added shall be borne by the Customer.
2. The prices stated on the ABT Sportsline website do not include the respective delivery and shipping costs. In case of deliveries to countries outside the European Union, additional costs may arise in individual cases for which ABT Sportsline is not responsible and which shall be borne by the Customer. These include, for example, costs for the transfer of money through credit institutions (e.g. transfer fees, exchange rate charges) or import duties or taxes (e.g. customs duties).
3. ABT Sportsline is entitled to demand an appropriate advance payment when an order is placed. If prepayment has been agreed, payment is due immediately after conclusion of the contract without deduction, otherwise the invoice amount and the prices for ancillary services are due for payment without deduction upon acceptance of the vehicle and handover/transmission of the invoice, and at the latest within one week after notification of completion and handover/transmission of the invoice.
4. If more than two months elapse between the conclusion of the contract and the agreed installation date, ABT Sportsline is entitled to adjust the price if wages, material costs, raw material prices, land or sea freight, taxes, customs duties or market cost prices have increased by the time the ordered items are completed.
5. Any correction of the invoice must be carried out by ABT Sportsline – and any complaint by the Customer received – no later than 6 weeks after receipt of the invoice.

## **§ 14 Set-off and retention**

1. The Customer can only offset against claims of ABT Sportsline if the Customer's counterclaim is undisputed or a legally binding title exists.
2. The Customer can only assert a right of retention if this is based on claims arising from the contractual relationship.

## **§ 15 Extended lien**

1. Due to its claims arising from the order, ABT Sportsline is entitled to a contractual lien on the ordered items which have come into its possession as a result of the order. The contractual lien can also be asserted for claims arising from work carried out earlier, spare parts deliveries and other services, insofar as they are connected with the ordered items.
2. ABT Sportsline is entitled to undertake debt recovery actions in the form of a private sale. As a threat of such action, written notification to the purchaser's most recently known address is sufficient.
3. For other claims arising from the business relationship, the contractual right of lien shall only apply if these claims are undisputed or if a legally binding title exists and the ordered items belong to the Customer.

## **§ 16 Data security and access to the website**

1. The servers of ABT Sportsline are secured in accordance with the state of the art, in particular by firewalls; the Customer is aware that all parties face the risk that the transmitted data may be intercepted along the transmission path. This applies not only to the exchange of information via e-mail transmitted by the system, but also to integrated applications such as weblogs, user messages, etc. and to all other data transfers. The confidentiality of data transmitted in the context of the use of the ABT Sportsline website is therefore not guaranteed.
2. ABT Sportsline does not guarantee that its website will be accessible and available at all times and for an unlimited period of time. If access to the website is restricted or not possible at all due to unscheduled maintenance and services, ABT Sportsline will make every effort to rectify the fault as quickly as possible.

## **§ 17 Information on data protection**

1. Personal data is only collected by ABT Sportsline if the Customer makes it available to ABT Sportsline of his or her own accord for the purpose of processing the contract. All data is stored and processed in compliance with the relevant statutory regulations. The personal data entered on this occasion will be used for contract processing and for processing the Customer's enquiries.

2. ABT Sportsline will not pass on personal data, including the Customer's home address and e-mail address, to third parties without the express consent of the Customer, which may be revoked at any time. Excluded from this is the transmission of data to the transport company commissioned with the delivery, as far as this is necessary for the delivery of the goods, as well as to the credit institute commissioned with the processing of payments. In these cases, the scope of the transmitted data is limited to the necessary minimum.
3. After complete processing of the contract and complete payment of the purchase price, the Customer's data will be stored in accordance with the retention periods under tax and commercial law, and will be deleted after these periods have expired, unless the Customer has expressly consented to the further use of his/her data.
4. The Customer has a right to free information, correction, blocking and deletion in respect of his/her stored data at any time. Such requests should be sent by post, e-mail or fax to: ABT Sportsline GmbH, Johann-Abt-Straße 2, 87437 Kempten, Tel: +49 (0) 831 / 57140-0, Fax: +49 (0) 831 / 72666, e-mail: [info@abt-sportsline.de](mailto:info@abt-sportsline.de)
5. The Privacy Policy is available to the Customer at any time at [www.abt-sportsline.de/datenschutz](http://www.abt-sportsline.de/datenschutz).

#### **§ 18 Online dispute resolution**

In accordance with Directive 2013/11/EU, the EU Commission has set up an internet platform for the online settlement of disputes ("OS Platform") between businesses and consumers. This can be reached via the following link: <http://ec.europa.eu/consumers/odr>.

#### **§ 19 Notice pursuant to section 36 of the Consumer Dispute Settlement Act (VSBG)**

ABT Sportsline will not take part in any dispute settlement proceedings before a consumer arbitration board within the meaning of the VSBG and is not obliged to do so.

#### **§ 20 Applicable law and place of jurisdiction**

1. This contract is governed by the law of the Federal Republic of Germany under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). This choice of law includes the provision that the Customer, being usually resident in one of the states of the EU or Switzerland, shall not be deprived of the protection granted by mandatory provisions of the law of said state.



2. Insofar as the Customer is a special fund under public law or an entrepreneur within the meaning of § 1 (1) of these General Terms and Conditions, the exclusive place of jurisdiction for all disputes arising from the contract is the registered office of ABT Sportsline in Kempten. The same applies if the Customer does not have a general place of jurisdiction in Germany or the EU, or if his/her place of residence or usual abode is not known at the time the action is brought. The right to also bring an action before a court at another place of jurisdiction remains unaffected.