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## Online Requesting of Services from the SMTSE Department – General Terms and Conditions of Business

### 1. General – Scope of Application

- 1.1 The following General Terms and Conditions of Business (referred to hereinafter as "**General Terms and Conditions**") shall apply exclusively, in the version valid at the time the order is placed, to all present and future business relations in the course of which MAN Truck & Bus Aktiengesellschaft (referred to hereinafter as "**MAN**"), through the SMTSE Department, makes available or sends service documentation and other technical information (e.g. confirmations of technical changes and factory plates, bodywork approvals and inspections and information on technical data) (collectively referred to hereinafter as "**Information Material**") for downloading via the MANTED Portal ([www.manted.de](http://www.manted.de)) (referred to hereinafter as "**Portal**") and in the course of which MAN makes software with technical data (e.g. data files for vehicle parameterisation (referred to hereinafter as "Software") available to customers. Before using it in any way whatsoever, the Customer shall be obliged to check the Information Material and Software that is made available to him by MAN following his request.
- 1.2 *Entrepreneurs* for the purposes of these General Terms and Conditions are individuals or legal entities or partnerships possessing legal personality with whom business relations are established and who are acting in that context in the exercise of a trade or business or a self-employed professional activity.
- 1.3 *Consumers* for the purposes of these General Terms and Conditions are individuals with whom business relations are established without their being engaged in a trade or business or self-employed professional activity in that context.
- 1.4 *Customers* for the purposes of these General Terms and Conditions are both entrepreneurs and consumers.
- 1.5 The Customer is aware that the Information Material and the Software supplied apply only to a particular MAN truck, bus or engine type and equipment in each case. The respective relevant Information Material should therefore be used for new or different truck, bus or engine models.
- 1.6 The Customer shall be given a personal password in order to use the Portal. The Customer is not authorised to disclose the personal password to third parties. The Customer shall keep his password secret at all times. The Customer shall be responsible for any misuse of his password, including third party use of the Portal via the Customer's password. In this case the Customer shall be subject to the same obligations as in own use.
- 1.7 During the registration process, the Customer shall be obliged to complete his data accurately and in full. The Customer must keep his personal profile up to date in the Portal. The Customer must himself update all changes regarding his name, his company name and legal form, his company's registered office and similar facts of importance to the contractual relationship. Any changes in the Customer's personal contact data that cannot be independently updated by the Customer on security grounds must be requested in writing by sending an e-mail or fax to the address stated in 1.12. MAN shall not assume any liability whatsoever for damages arising as a result of incorrect information being provided by the Customer.
- 1.8 MAN reserves the right to block the Customer's access/download or to delete the User from the Portal if he breaches these General Terms and Conditions. Similarly, MAN also reserves the right to delete the Customer's access to the Portal on security grounds if the Customer has not logged in to the Portal for more than 18 months.
- 1.9 The Portal may contain links to third-party websites. MAN checked the directly-linked websites at the time of link creation and was satisfied that they were free of illegal

content. However, MAN has no influence on the contents of linked pages and is not in a position to check them continually. MAN shall not be held responsible for the content of such sites.

- 1.10 MAN reserves the right to amend or supplement these General Terms and Conditions at any time, with effect for the future. The amendments shall be notified to the Customer in text form before the planned change, together with notification of the date on which the amendments will become effective. The Customer shall be deemed to have consented to the amendment to the contract if the Customer does not object in text form within six weeks of receiving the notification of amendment. MAN shall refer to this specifically in the notification of amendment. The objection must be sent to the address specified in the notification of amendment or to the address stated in 1.12. If the Customer does not object to the change in the General Terms and Conditions, MAN shall make the amended version of the General Terms and Conditions the basis for the contract. If the Customer objects to such an amendment of the General Terms and Conditions, MAN reserves the right to pronounce termination. MAN shall only make amendments for cogent reasons, especially as a result of new technical developments, changes in case law or other equivalent reasons. If the amendment significantly alters the balance of the contract the amendment shall not apply. The respective current version of the General Terms and Conditions is filed on the Internet at [www.manted.de](http://www.manted.de).
- 1.11 MAN reserves the right to expand, reduce or otherwise alter the content of the Portal and the documentation and functionalities of the applications at any time. The Information Material available via the Portal shall be carefully compiled and regularly updated by MAN. The Customer shall be responsible for finding out about updates to Information Material already obtained by the Customer.
- 1.12 In case of any questions concerning online requesting of services, the Customer should contact:
- MAN Truck & Bus AG,  
Dept. SMTSE  
Dachauer Str. 667,  
80995 München
- Fax: + 49 (0)89 1580 4264,  
E-mail: [esc@man.eu](mailto:esc@man.eu)

## **2. Conclusion of the contract / Revocation**

- 2.1 The offer is without obligation. The right to make technical changes is reserved
- 2.2 By registering, the Customer gives a binding declaration of his intention of using the online services in accordance with these General Terms and Conditions.
- 2.3 MAN shall notify the Customer that he has been cleared to access the Portal by sending a reply in the form of an e-mail. Receipt of this reply e-mail concerning registration shall constitute MAN's binding acceptance of the registration.
- 2.4 The Customer may amend or delete his log-on data at any time. Any deletion of the Customer's account or changes in the Customer's personal contact data that cannot be independently changed by the Customer on security grounds must be requested in writing by sending an e-mail or fax to the address stated in 1.12.
- 2.5 The Customer shall use the Portal to order the required Information Material/Software. The Customer's respective purchase order shall constitute a binding offer. The respective contract between the Customer and MAN shall materialise when the reply e-mail is received or when the Information Material is sent or when MAN confirms the Software to the Customer.

### **3. Revocation**

- 3.1 If the Customer is a consumer and if MAN has concluded a contract solely by using remote telecommunication means, and in particular by telephone, fax, e-mail or via MAN's website, the Customer shall be entitled to revoke his contractual declaration within 14 days in text form (e.g. letter, fax, e-mail), without stating the reasons for such revocation. The period shall commence on receipt of this information in text form, but in cases where goods are delivered not before the goods have been received by the recipient and in cases where services are provided not before the contract is concluded and also not before we have fulfilled our duties concerning the provision of information pursuant to § 312e para. 1 sentence 1 of the German Civil Code [BGB] in conjunction with Article 246 § 3 of the Introductory Act to the Civil Code [EGBGB]. The right of revocation shall not apply to contracts concerning the delivery of Software if the seals on the data carriers supplied have been removed by the consumer. The consumer shall also not have any right of revocation if the Information Material or Software is purchased without using a data carrier. The date on which the revocation or item is sent shall be deemed sufficient as regards compliance with the revocation period. Notice of revocation should be sent to:

MAN Truck & Bus AG,  
Dept. SMTSE  
Dachauer Straße 667,  
80995 München

Fax: +49 (0)89 1580 4264,  
E-mail: [esc@man.eu](mailto:esc@man.eu)

- 3.2 In the case of effective revocation, performance received by either party must be returned together with any benefits derived. If the consumer cannot return all of the performance received or can only return it in part or in a deteriorated state, he must pay MAN corresponding compensation. This may mean that the consumer must nevertheless fulfil his contractual payment obligations for the period up to the moment of revocation. Moreover, the consumer may avoid his obligation to pay compensation for deterioration of the item resulting from usage in accordance with the intended purpose by not using the item as his property and refraining from everything that impairs the item's value. Obligations to reimburse payments must be fulfilled within 30 days. For the consumer, the period shall commence when the notice of revocation or the item is sent; for MAN, the period shall commence on receipt of said notice or item. The right of revocation shall expire prematurely if the contract has been fulfilled in its entirety by both parties at the express wish of the consumer, before the consumer has exercised his right of revocation.
- 3.3 Any right of revocation on the part of the consumer shall be excluded where PDF files are downloaded and where services are transmitted online by MAN.

### **4. Delivery / Availability**

- 4.1 Information Material and Software may be unavailable at times due to server failure. Any sale, publication or forwarding of Information Material and other portal content shall be authorised only with MAN's prior consent. The Customer shall contact MAN (Department SMTSE, Dachauer Str. 667, 80995 Munich) in this respect. The Customer shall be entitled to use MAN software only for the Customer's own purposes. Such rights shall not be transferable to third parties.
- 4.2 Disruption may occur due to force majeure including strikes, lockouts and official measures and due to necessary technical and other measures involving MAN's or the network operator's equipment to ensure correct operation or improvement of the services (such as maintenance, repairs, software updates determined by the system, upgrades). Disruption may also be caused by short-term capacity bottlenecks due to peak loads on the services or by faults affecting third-party telecommunications systems. No compensation shall be due for losses due to supply delays.

## **5. Terms of payment**

The invoice shall be issued by MAN. The invoice amount shall be shown in the respective national currency, provided nothing to the contrary has been agreed with the Customer on an individual basis. The invoice amount shall be payable on receipt of the invoice. In the event of default, an entrepreneur must pay interest on the money due at 8% above the base interest rate. In the event of default, a consumer must pay interest on the money due at 5% above the base interest rate. The Customer's obligation to pay default interest shall not exclude MAN's right to assert additional damages for default.

## **6. Data Protection and Confidentiality**

**The Customer is in agreement that enquiries made by him via the Portal and also MAN's replies shall be stored, together with the personal data provided in this connection, in an electronic service system belonging to MAN and shall be stored as part of the vehicle's service record and made available to the global MAN service partners for retrieval via the vehicle identification number (VIN).**

**The aforementioned data shall be used for warranty or guarantee processing purposes or within the framework of goodwill cases/standard workshop and service orders. Since the data in question involves information on specific vehicles, it will be stored and made available for the vehicle's entire history.**

**In view of the fact that MAN service partners are located across the globe, the data shall also be transmitted to other countries without an appropriate level of data protection.**

## **7. Copyright**

7.1 All copyright is reserved.

7.2 MAN expressly reserves all rights of publication, reproduction, processing and exploitation in the content of the Information Material and Software supplied.

7.3 MAN shall not grant the Customer a licence or any other right in proprietary rights. The Customer undertakes not to use the Portal in breach of copyright.

The Information Material and the Software supplied are protected by copyright and the Customer may only use them for the purposes of his attachment, body and conversion work for MAN vehicles or of his work as a MAN workshop. Re-publication in the Customer's name or disclosure to third parties shall be prohibited. Moreover, the Customer shall be prohibited from any more extensive use of the Information Material and Software supplied by MAN. All other contractual conditions agreed with MAN shall also apply to MAN workshops.

## **8. Liability for Defects and Liability**

8.1 In the event of defects in the supplied or centrally installed Software or in the supplied Information Material that impair usability to a more than merely insignificant degree, the Customer may, as subsequent performance and at his choice demand either rectification of the defect or delivery of defect-free Software or Information Material. Claims relating to obvious defects shall be excluded if they are not notified to MAN in writing or in text form within 10 days of the service being provided. MAN shall be entitled to refuse the type of subsequent performance selected by the Customer if it is only possible at unreasonable cost. If MAN delivers a defect-free item as subsequent performance, the Customer shall be obliged to return the defective item.

8.2 If subsequent improvement fails despite two attempts, the Customer shall be entitled to return the supplied Software or the supplied Information Material against reimbursement of the purchase price. Alternatively, the Customer may demand a reduction in the item's purchase price. This right must be exercised vis-à-vis MAN in writing, subject to a preclusive time limit of one month starting from the date of the last failed attempt at subsequent improvement. Withdrawal shall not be permitted where defects are only minor.

- 8.3 Liability for consequential damage caused by a defect shall be excluded provided this is permitted by law and the maximum extent of liability shall be limited to the purchase price.
- 8.4 For entrepreneurs, the period of liability for defects shall be one year commencing on the date on which the products are delivered. For consumers, the period of liability for defects shall be two years commencing on the date on which the products are delivered.
- 8.5 If MAN is liable, in accordance with the statutory regulations, for damage caused by slight negligence, MAN's liability shall be limited:  
Liability shall exist only in the event that substantial contractual obligations are breached, such as those that the contract imposes on MAN in terms of content and purpose or whose performance is a prerequisite for the proper execution of the contract in the first place and on the compliance of which the Customer may and does regularly rely. This liability shall be limited to typical damage foreseeable at the time the contract was concluded. The aforementioned limitations of liability shall not apply to injuries concerning the life, body and health of persons.
- Irrespective of fault on the part of MAN, any liability of MAN under the German Product Liability Act [Produkthaftungsgesetz] shall not be affected.
- Where damage is due to delay or impossibility and MAN or its employees are not guilty of gross fault or intent, the compensation owed shall be limited to direct damage.
- 8.6 MAN shall not be held liable for the up-to-dateness and accuracy of Information Material and Software already obtained by the Customer save in case of intent or gross negligence. Furthermore, MAN shall not be held liable for incorrect use of the Information Material and Software. All attachments, body work and conversions of commercial vehicles must always be carried out by specialist personnel. MAN shall not be held liable for damage arising due to the Customer's lack of technical knowledge.

## **9. Final Provisions**

- 9.1 The Law of the Federal Republic of Germany shall apply. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 9.2 The place of jurisdiction shall be MAN's registered office if the Customer is a merchant, a public-law corporation or a special fund under public law.

## **10. Severance**

Should any individual provision be or become void or unfeasible, the validity of the remaining provisions hereof shall in no way be affected.