

Hitachi High-Technologies Europe GmbH

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HITACHI HIGH-TECHNOLOGIES EUROPE GMBH
Dornacher Str.3e, 85622 Feldkirchen

Automotive AG
Warenannahme
Hauptstr. 12
93055 Regensburg

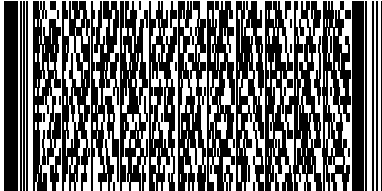
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Delivery Note

Delivery Note No.: 16003646		S/O No.: 11004626	
Page: 1 / 1			
Delivery Date: 08.11.2002	Date Issue: 08.11.2002	Currency: EUR	Duty Status: Duty paid
Customer Code: 110133		Terms of delivery: DDP Regensburg	

Bill to address: 140070

Automotive AG
UUV - RW4
Postfach 10 09 43
93009 Regensburg

Vendor Part Name Customer Part Name	Line	Customer P/O No.	Dual Use Origin	Quantity Shipped
2SJ530-90STR 6596602060	30	Clutch	NO Malaysia	68.000
HD64413ASFI 9999999888	20	M 3 - Screw	NO Japan	800
HG73C504FE 6532672090	10	M 4 - Screw	NO Japan	7.500
				

REMARKS

In case of questions please contact: Hubert Mayr Tel : 006/11756--680 Fax : 006/11988-60

Delivery Note:
3 positions for 2D Barcode-Customers
M.Linde

OUR GENERAL TERMS AND CONDITIONS PRINTED OVERLEAF ARE PART OF THIS CONTRACT.

HEAD OFFICE: HITACHI HIGH-TECHNOLOGIES EUROPE GMBH, BERLINER STR. 91; 40880 RATINGEN; TEL: (02102) 453-0; FAX: (02102) 436955 + 436858
VAT-ID NO: DE121640503; Office: RATINGEN; PLACE OF REGISTRATION: RATINGEN; TRADE REGISTER: HRB 1808 PRESIDENT: KATSUMI MIYATA, IKUO KINOKUNI
TAX PAYER'S REFERENCE NUMBER 147/5854/0167

GENERAL TERMS AND CONDITIONS SALES

1. TRADE TERMS

Where the Goods are to be delivered *fas, fob, c & f (or cfr), cif, cpt, cip* or upon some other trade term to which the rules for the interpretation of trade terms known as Incoterms (2000 Edition as amended from time to time) ("Incoterms") are expressed to apply, then the provisions of Incoterms applicable to such trade term shall apply to this Contract save insofar as the same may be inconsistent with any term hereof.

2. SHIPMENT/DELIVERY

(a) Partial shipment or delivery and/or transshipment shall be permitted. Each partial shipment or delivery shall be deemed to be the subject matter of a separate contract to the intent that failure or defects in such shipment or delivery shall not entitle Buyer to treat such failure or defects as a repudiation of this Contract as a whole. (b) Date of bill of lading or air waybill shall be accepted as conclusive evidence of the date of shipment or delivery. (c) If the Goods are to be delivered under this contract *fas, fob seaport or fob airport*, Seller will decide the vessel or the aircraft for the shipment or delivery of the Goods, unless Buyer expressly nominates a liner, who must be member of conference line, or an aircraft in time for delivery of the Goods. (d) If under the terms of this Contract stowing, trimming or levelling of the Goods on board at the port of shipment is an obligation of Seller this shall not affect the passing of risk of loss of, or damage to, the Goods which shall pass from Seller to Buyer in accordance with the provisions of the foregoing Conditions or of Section 3 (d) hereof. (e) Any dates quoted for delivery of the Goods are approximate only and Seller shall not be liable for any delay in delivery of the Goods, unless time was of the essence or Seller has delayed delivery intentionally without good cause. Time for delivery shall not be of the essence unless previously agreed by Seller in writing. (f) In the event that any necessary licence cannot be obtained from the government of the importing country or of the exporting country respectively, this Contract shall be null and void and of no effect.

3. PROPERTY AND RISK

(a) Property in the Goods shall not pass to Buyer until the date on which all amounts outstanding from Buyer to Seller under their contracts of sales or under contracts related therewith have been unconditionally and fully paid by Buyer to Seller. (b) Unless and until property has passed to Buyer under paragraph (a) of this Condition, (i) Buyer shall have possession of the Goods as Seller's fiduciary agent and bailee only; and (ii) Buyer shall maintain the Goods separately from its own property and that of any third party, properly stored, protected and insured and identified as Seller's property; and (iii) Seller shall be permitted to inspect the Goods at any time and may at any time repossess the same and may enter upon Buyer's premises for this purpose; and (iv) Buyer may sell the Goods in the ordinary course of its business but shall not otherwise (and shall not purport to) sell, mortgage, encumber or part with possession of the Goods nor allow any lien or encumbrance to arise over the same. (v) Buyer hereby assigns to Seller for security purposes all of Buyer's receivables emanating from Buyer's sale of the Goods under retention of title, provided that Buyer shall remain entitled to collect such assigned receivables until Seller revokes this authorisation, and further provided that Seller may disclose this assignment to Buyer's customer(s) at any time. (c) In the event that the fair market value of the security obtained by Seller by virtue of subparagraphs (a) and/or (b) above should at any time exceed the amounts outstanding from Buyer to Seller by 20% or more, Seller shall release the excess security upon Buyer's request. (d) Notwithstanding that property in the Goods may not have passed to Buyer, risk in the Goods shall pass to Buyer either as provided by applicable Incoterms or (if Incoterms do not apply) upon delivery to the Goods to the Buyer or the carrier or other agent, whichever occurs first.

4. PAYMENT

(a) In case payment for the Goods shall be made by a letter of credit under this Contract, Buyer shall, unless otherwise provided for herein, establish in favour of Seller an irrevocable and confirmed letter of credit negotiable by sight draft through a prime bank of good international repute satisfactory to Seller immediately after the conclusion of this Contract with a period of validity extending at least 20 days after the last day of the period of the relative shipment or delivery. Such letter of credit shall be in a form and upon terms satisfactory to Seller and shall expressly permit part shipment and shall authorise reimbursement to Seller for such sums, if any, as may be advanced by Seller for consular invoices, inspection fees and other expenditures for the account of Buyer. Should payment under such letter of credit not be duly effected, Buyer shall, upon notice thereof from Seller, immediately make payment in cash to Seller directly and unconditionally together with interest in accordance with Condition 4 (g) from the date on which such payment became due under such letter of credit until payment by Buyer. (b) All bank charges outside Germany, including collection charges and stamp duties, if any, shall be for the account of Buyer, provided that confirming commissions shall be for the account of Buyer, regardless of being charged within or outside Germany. (c) Buyer shall in addition to the price of the Goods specified on the face of this Contract ("the Contract Price") pay all taxes, duties and other fiscal dues of any kind levied in respect of the sale of the Goods including (but not limited to) Value Added Tax and customs duties. (d) All payments under this Contract shall be made by Buyer free and clear from any deduction, and from any set-off or counter-claim of any kind to which Buyer might otherwise be entitled (all of which are hereby waived by Buyer), unless recognized by Seller or adjudicated to Buyer in a final court judgement. (e) Time for payment under this Contract and/or for the opening of any letter of credit or for making any other arrangements relating to payment hereunder shall be of the essence of this Contract. (f) If Seller agrees to allow Buyer credit, Seller may at any time in its sole discretion limit or cancel the credit of Buyer and may likewise require payment of all or any part of the Contract Price for the Goods to be made in cash in advance of delivery or may require guarantees or other security to be provided and any payment or security so required shall be paid or furnished by Buyer promptly upon such requirement being notified to Buyer. Seller shall be under no liability to deliver the Goods unless and until Buyer has complied with this Condition and has discharged all its other obligations to Seller under this Contract and on any other account. § 454 German Civil Code is inapplicable. (g) In case of any delay in payment of any amount due to Seller, Buyer shall pay interest on such amount from the due date until payment (after and before judgement) at the rate determined by Seller to be two per cent (2%) above Seller's cost of funding such amount during such period. (h) Seller may set-off against any sums which may become due from Seller to Buyer, any sums which may be or become due from Buyer in respect of this Contract or on any other account.

5. INSURANCE - If this Contract is on a *cif* or *cip* basis, 110% of the Contract Price shall be insured by Seller, unless otherwise agreed herein.

6. INCREASED COSTS

If after the conclusion of this Contract there shall be any increase in the amount of any charges or payments for or of the nature of freight rates, surcharges (bunker, currency, congestion or other surcharges), taxes, customs duties, export and import surcharges or other governmental charges or insurance premiums (including those for war and strikes, riots and civil commotion risks) which in any such case under this Contract are payable by Seller or if any new or additional such charges or payments shall be incurred by or imposed on Seller with respect to the Goods, then the amount of such increase or (as the case may be) such new or additional charges or payments shall be for the account of Buyer who shall promptly reimburse Seller the amount of same.

7. WARRANTY AND LIABILITY

(a) Subject to the provisions of Section 8, Seller's warranty with respect to any Goods found defective shall be confined to replacement or, at Seller's option, to repair at Seller's expense. Only if these remedies should fail may Buyer at its option reduce the purchase price or rescind the contract. (b) Save as aforesaid Seller shall be under no liability whatsoever howsoever arising (including, but not limited to, non-delivery and late delivery) unless Seller is guilty of gross negligence or intent in which event Buyer upon first giving reasonable notice with a request to remedy Seller's default may rescind the contract or claim compensation of Buyer's direct damages. (c) Seller's total liability for any claims of Buyer for which Seller may be liable (however arising) shall in no event exceed the price of the Goods with respect to which such claim is made. Seller shall not in any circumstances be liable to Buyer for any incidental, indirect, consequential or special loss or damage.

8. CLAIMS

(a) Buyer shall inspect the Goods immediately upon their arrival, unless the parties have agreed that inspection shall take place at a different time and/or place. (b) Buyer shall notify Seller by mail or by telex of any defects or shortfall of the Goods not later than within 14 days after arrival of the Goods - see (a) above - or in the event of hidden defects which could not be detected upon inspection, within 7 days after their discovery; provided, however, that Buyer shall be deemed to have waived its claims for defects or shortfall if Buyer should resell or process the Goods prior to notifying Seller thus making Seller's verification of the claims impossible. (c) Buyer's claims shall contain full particulars of the claim and shall where appropriate be accompanied by evidence thereof certified by an authorized surveyor. (d) Claims other than for defects or shortfall shall be notified to Seller within six (6) months after the arrival of the Goods. (e) Unless otherwise specifically agreed in the Contract, the Statute of Limitations for warranties shall be six (6) months upon arrival.

9. PATENTS, TRADEMARKS, ETC.

Seller shall not be responsible to Buyer, and Buyer waives any claim against Seller, for any alleged infringement of patent, utility model, design, trademark, copyright or any other industrial or intellectual property right, in connection with the Goods, except that in any of such events Seller shall exert its best efforts to obtain permission to use the Goods from the rights owner or shall permit Buyer to rescind the Contract. Nothing herein contained shall be construed as transferring any patent, utility model, trademark, design or copyright in the merchandise; all such rights should expressly be reserved to true and lawful owners thereof.

10. FORCE MAJEURE

In the event that the performance by Seller of its obligations hereunder is prevented by force majeure, directly or indirectly affecting the activities of Seller or any other person, firm or corporation connected with the sale, manufacture, supply, shipment or delivery of the Goods, including, but not limited to, act of God, flood, typhoon, earthquake, tidal wave, landslide, fire, plague, epidemic, quarantine restriction, perils of the sea, war or serious threat of the same, civil commotion, blockade, arrest or restraint of government, rulers or people, requisition of vessel or aircraft, strikes, lockouts, other labour dispute, sabotage, explosion, accident or breakdown in whole or in part of machinery, plant, transportation or loading facility, governmental request, guidance, order of regulation, unavailability of transportation or loading facilities, curtailment, shortage or failure in the supply of fuel, water, electric current, other public utility or raw material including crude oil, petroleum or petroleum products, bankruptcy or insolvency of the manufacturer or supplier of the Goods, boycotting of the Goods, substantial change of the present international monetary system or any other causes or circumstances whatsoever beyond the reasonable control of Seller, then Seller shall not be liable for loss or damage or failure or delay in performing its obligations under this Contract and may, at its option, extend the time of shipment or delivery of the Goods or cancel unconditionally and without liability the unfulfilled portion of this Contract to the extent so affected.

11. BUYER'S DEFAULT

If Buyer shall make default in or commit any breach of any of its obligations (including, but not limited to, payment obligations) to Seller under a Contract or if Buyer (or when Buyer is a firm, any partner in that firm) shall at any time become bankrupt or shall have a receiving order or administration order made against him or shall enter into composition with its creditors or shall become subject to sequestration or if Buyer's firm is dissolved or, Buyer being an incorporated body, if a resolution of dissolution shall be passed (otherwise than for reconstruction or amalgamation approved by Seller) or a resolution to split Buyer's corporate entity into several entities or if Buyer shall be insolvent or shall be unable or be deemed unable or shall admit its inability to meet its commitments promptly as and when due or if any other event shall occur which in Seller's opinion gives grounds for believing that Buyer's ability to perform its obligations under this Contract may be impaired then and in any such event or the equivalent thereof in Buyer's country of domicile, Seller may (without prejudice to any other right or remedy which it might have):

(i) forthwith determine this Contract in whole or in part by notice in writing after giving Buyer an opportunity to remedy its default, unless the receiver in bankruptcy should choose to fulfil the Contract; and/or

(ii) suspend further performances in whole or in part; and/or

(iii) forthwith demand immediate payment of the Contract Price of the Goods and all other sums which may be outstanding to Seller on any account whereupon the same shall become immediately due and payable; and/or (iv) demand security by bank guarantee or otherwise for payment of the Contract Price; and/or (v) repossess any of the Goods held by Buyer in which property has not yet passed to Buyer and for this purpose enter upon any premises of Buyer.

12. FURTHER ASSURANCE

Buyer shall from time to time (and at Seller's request) execute such further assurances, instruments or documents and do or cause to be done any such other acts and things (e.g., registration) as may be necessary, proper or advisable under applicable laws and regulations to ensure that property in, and legal and beneficial ownership of, the Goods passes to Buyer only in accordance with the provisions of this Contract.

13. RE-EXPORT

The Buyer shall not resell the merchandise to any other country than the destined country, directly or indirectly, without the written consents of the Sellers. In the event any merchandise subject to this contract, Buyer shall not directly or indirectly export, re-export, transship or make available any products, including software, parts, technical information/date and documents relating to this order, to any third parties outside of the Buyer's country in violation of any applicable export control laws, rules and regulations promulgated and administered by the government of the Seller's country and/or the government of the country claiming the jurisdiction over the parties and transactions.

14. LAW APPLICABLE AND VENUE

This Contract shall be governed by and construed in all respects in accordance with the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. Buyer submits to the exclusive jurisdiction of the Düsseldorf courts but Seller may institute proceedings in the courts of any other competent jurisdiction.

15. WAIVER

Failure or delay by Seller to enforce any of its rights against Buyer shall not be construed as a waiver of such rights. If Seller does waive any of its rights in relation to a breach by Buyer of its obligations, such waiver (which must be in writing) shall not be construed as a waiver of such rights in relation to any other breach.

16. ENTIRE AGREEMENT

This Contract is based on the terms and conditions expressly set forth herein and no other terms and conditions are binding on Seller without its agreement in writing to such other terms and conditions.

17. MISCELLANEOUS

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the condition in question shall not be affected.