

# Electronic Data Interchange Agreement

This Electronic Data Interchange Agreement is agreed between

VOSS Automotive GmbH  
Leiersmühle 2 - 6; 51688 Wipperfürth

hereinafter referred to as "VOSS"

and

.....

.....

hereinafter referred to as "Supplier"

and each hereinafter referred to individually as "Party" and jointly as "Parties" to this  
Electronic Data Interchange Agreement.

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## PREAMBLE

A) WHEREAS, VOSS manufactures in close cooperation with well-known manufacturers in the field of commercial vehicle, passenger car, off-road vehicle and engine construction, connectors, brake and fuel lines as well as other piping systems all over the world. In close cooperation with its customers, mainly OEMs and "Tier 1 contractors", VOSS designs the line and connection technology in current and future vehicle systems and delivers them from its international locations according to the automotive industry customary to its global customers.

B) WHEREAS, Supplier develops, manufactures and markets and has particular capabilities and knowledge in these areas. Supplier is aware that VOSS products are used worldwide and must satisfy the highest quality standards.

C) WHEREAS, This Agreement shall regulate the electronic data interchange (hereinafter referred to as „EDI“) with the aim to simplify and speed up the communication between VOSS and Supplier. This data interchange can be carried out with a point-to-point-connection.

NOW, THEREFORE, in accordance with the provisions set out as follows, the Parties agree:

## 1. Definitions

### 1.1. "Data"

„Data“ in terms of this Agreement is all types of data and information which is sent or received today or in future within the supply relationship with the aim to simplify the communication process. Such data is especially, but not exclusively, orders, delivery schedules, JIT-calls, delivery notes and transport data, as well as credit note handling, stock movements and invoices.

### 1.2. „Data interchange“

Data interchange includes the transmission and receiving of data that occurs from Monday to Sunday, 24 hours per day, unless the parties agreed otherwise in written form.

## 2. Connection of Supplier

### 2.1. Time and type of connection

Time and type of connection of Supplier take place in coordination with VOSS.

### 2.2. Technical procedure

The technical procedure of the connection of Supplier to the data network and the requested parameters are determined by VOSS.

### 2.3. Go-live

The go-live of the connection does not take place before both parties mutually arrived at the conclusion that the electronic connection works error-free and is suitable for the use in the course of business.

### 2.4. Costs

Each party shall bear its own costs for the setup and operation of the communication devices required for the electronic data interchange unless the parties agreed otherwise in written form in individual cases.

### 2.5. Validity

The following regulations of this Agreement are valid from the day of go-live of Supplier relationship.

## 3. Process of Electronic Data Interchange / Behavior in Case of Errors

### 3.1 Electronic data transmission

With Supplier's connection and the go-live of the EDI-process, the transmission of the applicable Data for the relevant business relationship basically takes place in electronic form, unless differently stated in this Agreement or otherwise agreed between the parties. If the EDI-process is used no additional written confirmation of orders and delivery schedules as well as the quantities and dates contained therein is required.

### 3.2 Avoidance and elimination of errors

Supplier shall take all appropriate measures in the ordinary course of business to avoid errors in his area of responsibility and to rectify such errors immediately with all available resources.

### 3.3 Duty to inform

In case of significant errors in the EDI-process each party is obliged to inform the other party within an appropriate time period of the extent and the expected duration of such error. The notification shall be given by fax or e-mail. As soon as the error is rectified, the other party shall be informed thereof in due course.

### **3.4 Alternative data transmission**

If necessary, the parties will agree on an alternative method of data transmission for the duration of the error. In derogation of section 3.1 the data transmitted by this method shall be binding.

### **3.5 Contact person**

The contact persons for operating the electronic data interchange are exchanged between the parties; changes have to be communicated immediately.

### **3.6 Exclusion**

The application of § 312 e clause 1, sentence 1, no. 1 to no. 3 and sentence 2 BGB (Duties in electronic business dealings) are excluded.

## **4. Special Regulations for the Use of Direct Electronic Data Interchange**

The following regulations under this section 4 are not applicable for the web-based electronic data interchange.

### **4.1 Technical Data**

The technical specifications of the connection are documented in Appendix 1 "EDI Parameter Sheet". Changes must be made to the written agreement between the parties.

### **4.2 Obligations**

VOSS and supplier can be either sender or receiver of the data. The content of the sent message determines whether the supplier has the obligations of the data sender or the data receiver.

### **4.3 Receiving Data**

The data receiver shall take over the received data in his own application. He shall document the reactions of this data receiving process in his system.

### **4.4 Data transfer**

The data transmitter shall document the transmitted data in his system.

### **4.5 Ability to send and receive data**

With respect to the data interchange, Supplier shall permanently be able to transmit and to receive data.

### **4.6 Duty to inform**

Before a planned downtime, each Party shall inform the other Party in due time in written form by fax or e-mail, stating the reason for as well as the type and duration of the downtime.

### **4.7 Data transmission**

VOSS is entitled to transmit the data of Supplier to third parties if such data is necessary to register Supplier for the electronic data interchange.

### **4.8 File formats**

For communication with VOSS, the supplier shall exclusively use EDI messages according to developed message standards. These are defined in the VOSS EDI guidelines which are made available on the Internet <http://www.voss.de/en/automotive/downloads>.

## **5. Special Regulations for the Use of Web-Based Electronic Data Interchange**

For quality and efficiency reasons VOSS prefers the direct electronic data interchange. In exceptional cases, web-based electronic data interchange can be agreed. The

following regulations under this section 5 are exclusively applicable for the web-based electronic data interchange.

## 5.1 Registration

Supplier shall be obliged to register with the application used by VOSS or to coordinate access for use with VOSS.

## 5.2 Defects

If the application used is not provided by VOSS but by a third party, claims of the supplier for defects in the registration process and in the technical implementation as well as other defects shall be asserted against this third party. In such case, the third party is neither the legal representative nor the vicarious agent of VOSS.

## 5.3 Duty to inform

Supplier shall be obliged to inform VOSS if wrong or incomplete data is displayed in the application to be used. This obligation shall only be violated if Supplier detected the wrong or incomplete data or did not detect it due to gross negligence.

## 5.4 Data transmission

VOSS is entitled to transmit the data of Supplier to third parties if such data is necessary to register Supplier for the web-based data interchange. The transmission of such data shall not be allowed if Supplier immediately objected to the transmission in written form.

## 6. Data Access and Documentation of transmitted Data

### 6.1 Check of received data

Supplier shall check and process received data at least once per day.

### 6.2 Data Access

Data is considered to be received

- in case of the use of direct electronic data interchange, as soon as the transmission of the data has been confirmed by the receiver via end-to-end response (EERP) and logged by VOSS.
- in case of the use of web-based electronic data interchange, as soon as the data is made available on the application that is used.

### 6.3 Events outside normal business hours

If the events defined in clause 6.2 occur outside normal business hours (Monday to Friday, 7 a.m. to 5 p.m.), the data shall be deemed to have been received by the recipient at the beginning of the normal business hours on the following business day.

### 6.4 Duty to inform

If the receiver of the data can determine the transmission of incorrect or incomplete data by the care customary in business transactions or if a data transmission has failed, the receiver is obliged to inform the other party immediately in writing by fax or e-mail.

## 7 Acceptance

### 7.1 Fiction

The received Data especially, but not exclusively, orders and order confirmations, are deemed accepted if the Supplier doesn't notify his disagrees without delay to VOSS.

## **7.2 Notification**

The notification to VOSS will be made in writing.

## **8. Security of EDI-messages**

### **8.1 Protection measures**

The parties shall take and maintain all justifiable and reasonable measures to safeguard EDI-messages against unauthorized access, manipulation, delay, deletion or loss.

### **8.2 Duty to check**

The measures to be taken also include the regular check of the integrity and the uniqueness and traceability of the origin and receipt of EDI-messages as well as ensuring the confidentiality of EDI-messages.

## **9. Other Obligations of the Parties**

### **9.1 Technical changes**

Supplier is obliged to apply technical changes, which are necessary due to further developments or adjustments in the field of information technology, if such developments or adjustments do not require unreasonably high efforts with respect to time and costs. A reasonable adjustment is in particular the adjustment to the usual technical standards in the field of hard- and software. Regarding the incurred costs for the developments and adjustments, section 2.4 is valid accordingly.

### **9.2 Invoices/Credit notes**

If the invoices/ credit notes transmitted via EDI do not include the mandatory data according to § 14 Abs. 4 UStG (German Value Added Tax Act), Supplier shall in addition send a summarized invoice on paper (so-called sum protocol). The transmission of the sum protocol by fax requires as stipulated by law that the transmission is done from standard fax to standard fax (Value Added Tax Guidelines 2008, section 184 a paragraph 5). Therefore, Supplier shall send sum protocols from a standard fax and to use a standard fax for the receipt of credit notes. In Addition, Supplier shall generate the mandatory copies. The above mentioned regulations only apply to domestic German deliveries. Regarding EDI invoices/ credit note processes for other supply relations (abroad to domestic, domestic to abroad, abroad to abroad) the respective tax regulations apply.

## **10. Warranty**

### **10.1 Warranty**

VOSS is entitled to raise warranty claims against the Supplier concerning the failed data transmission, particularly the non-transfer or misdirected transfer of data as well as wrong or incomplete data.

### **10.2 Notice of Defects**

VOSS shall be obliged to immediately inform the Supplier of any defects with particular (but not exclusive) regard to wrong or incomplete data or failed data transmission in writing by fax or via e-mail if the defect is obvious by applying the usual care in business transactions.

Notification of any further defects must be given as soon as they are discovered within the ordinary course of business. To this extent, Supplier waives the objection of delayed notification of defects.

## **10.3 Rectification**

If a defect occurs, Supplier shall, at VOSS's discretion, rectify such defects immediately with all available resources. To this effect, VOSS shall set Supplier a reasonable period of time. As soon as the error is rectified, the other party shall be informed thereof in due course.

## **10.4 Self-Remedy**

If Supplier does not promptly begin rectification of the defect within the time period set by VOSS, then, after prior consultation with Supplier, VOSS may rectify the damage itself or have the damage rectified by third parties, with the costs for such rectification being borne by Supplier.

## **10.5 Warranty Period**

The warranty period ends 24 months after final start-up of initial operation.

## **10.6 Restart**

The period of limitation commence anew with completely performed rectification if the Supplier had to rectify the wrong or incomplete data or the failed data transmission within the warranty period. However, this applies only insofar as the rectification is more than merely insignificant in terms of scope, duration or costs.

## **11. Liability**

### **11.1 Statutory Regulations**

Supplier is liable for injury to persons, damage to property and economic loss according to the statutory regulations in case Supplier is at fault.

### **11.2 Indemnity**

If third parties make claims against VOSS due to product liability or defects, Supplier undertakes to indemnify and hold harmless VOSS if and insofar as the damage was caused by an error or defect in the Data delivered by Supplier.

### **11.3 Product Liability Insurance**

In order to cover liability risks, Supplier shall take out business and product liability insurance including product economic loss and recall costs with sufficient coverage at a renowned insurance company registered in the EU. The amount of coverage respectively for injury to persons and damage to property as well as for product economic loss and recall costs must be at least EUR 5 Million. Supplier undertakes to present a corresponding certificate of insurance to VOSS no later than at the time of first delivery.

## **12. Confidentiality and protection of personal data**

### **12.1 Confidential data**

Supplier shall keep all received data from VOSS strictly confidential. This means that Supplier shall not transfer any information directly or indirectly to any third party, neither verbally nor in written form nor in any other way. Additionally, Supplier shall use the data only for the subject of the contract.

### **12.2 Business secrets**

The Parties undertake to treat all non-public commercial and technical details that become known to them by virtue of the business relationship as business secrets.



### 12.3 Term

This confidentiality obligation also survives the termination of this Electronic Data Interchange Agreement for five (5) years.

### 12.4 Protection of personal data

Where EDI messages which include personal data are sent or received in countries where no data protection law is in force, each Party agrees to respect the EU community legislation regarding data protection law and automatic processing of personal data.

### 13. Contractual penalty

For each individual case of breach of the obligations arising from paragraph 9, 10, 11 and 12 - excluding the defense of the continuation of an offense - the supplier commits on first-time request without evidence of any loss to pay a contractual penalty in the amount of 5% of the (gross) amount of order at VOSS.

These liquidated damages shall not be counted against any claims for damages of VOSS.

### 14. Term

#### 14.1 Duration

This Agreement becomes effective with the signature of the parties and is valid indefinitely. However, the regulations of this Agreement can be terminated by the end of each calendar year with a notice period of 3 months or without notice for good cause.

#### 14.2 Fundamental significance

Supplier knows that the use of electronic data interchange is of essential importance for the supply relationship with VOSS. Therefore, if this Agreement is terminated by Supplier, VOSS and Supplier shall immediately start negotiations on a solution of the problems that occurred with respect to use of EDI. If such negotiations do not lead to a result acceptable for both parties within a reasonable period of time, VOSS has the right to terminate the Agreement for good cause.

### 15. Final Provisions

#### 15.1 Jurisdiction and Applicable Law

The exclusive place of jurisdiction for all disputes and claims arising directly or indirectly from contracts based on these terms and conditions, including non-contractual ones, is Cologne. We continue to be entitled, at our discretion, to sue the supplier at the court of its registered office or its establishment or at the court of the place of performance. If the supplier has its registered office outside the Federal Republic of Germany, we are also entitled, at our discretion, to let decide all claims, disputes or disagreements arising out of business relations with the Supplier get decided based on the rules of arbitration by the Zurich Chamber of Commerce by one or three arbitrators excluding ordinary course of law. The court of arbitration is located in Zurich, Switzerland. The arbitration must be conducted in English. The arbitral award is definitively binding on the parties concerned.

Contractual relations with a supplier established in an EU Member State are governed exclusively by German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Contractual relations with a supplier established outside the EU are governed by the local law of the head office of the respective customer, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

The German version of this EDI-Agreement is deemed to be a legally binding version for

contractual relations with a supplier established in the Federal Republic of Germany. The English version of this EDI-Agreement is deemed to be a legally binding version for contractual relations with a supplier established in a country other than the Federal Republic of Germany.

## 15.2 Severability

Should one or several provisions of this Electronic Data Interchange Agreement be or become wholly or partially invalid, the validity of the other provisions of this Electronic Data Interchange Agreement remains unaffected. In such a case, the invalid provisions must be replaced with valid provisions that come as close as possible to the economic and legal sense of the invalid provisions. The same applies for any possible gaps in the provisions of this Electronic Data Interchange Agreement.

## 15.3 Amendments

Amendments and supplements to this Electronic Data Interchange Agreement, as well as the waiver of the written form requirement itself, require the written form.

## 15.4 No supplementary agreements

There are no supplementary agreements whether written or oral to this Electronic Data Interchange Agreement.

## 15.5 No Waiver of Rights

A respite granted by a Party does not mean that this Party waives any right whatsoever within the context of this Electronic Data Interchange Agreement or relinquishes such right. Accordingly, the granting of this respite shall not result in this Party being hindered in exercising existing or future rights against the other Party.

## 15.6 Headings

All heading in this Electronic Data Interchange Agreement are solely for the sake of clarity. In case of doubt, they have no influence on the contents of the clause or its regulatory content.

This Agreement was signed with legally binding effect by the respective authorized agents or lawful representatives of the Parties and becomes effective as of the date of signing.

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Place, Date

\_\_\_\_\_  
Place, Date

\_\_\_\_\_  
VOSS Automotive GmbH

\_\_\_\_\_  
Supplier