

General Terms and Conditions of Sale for Schmitz Cargobull Van Bodies GmbH & Co. KG

1. Scope, Contract Conclusion, Transfer of the Buyer's Rights and Obligations

1.1 The General Terms and Conditions of Sale apply to all offices of Schmitz Cargobull Van Bodies GmbH & Co. KG (hereinafter referred to as "Seller") and purchase and supply contracts (hereinafter referred to as "Purchase contracts") concluded with the company. Any terms and conditions of the orderer or Buyer (hereinafter referred to as the "Buyer") that deviate from the following provisions are hereby rejected. Conflicting terms and conditions are only effective if they have been expressly approved by the Seller in writing.

1.2 These terms and conditions apply exclusively towards companies, legal entities under public law or a special fund under public law in the terms of section 310 para. 1 BGB (German Civil Code).

1.3 The offers of the Seller are without obligation and non-binding.

1.4 The offer is binding for the Buyer for 4 weeks. The purchase contract is concluded once the Seller has provided written confirmation of the acceptance of the order of the specifically named object of delivery (hereinafter "object of purchase") or delivers the object within this period.

1.5 The transfers of the Buyer's rights and obligations under the purchase contract require the Seller's written approval.

1.6 All agreements are to be recorded in writing. This applies to subsidiary agreements, service life and/or quality warranties as well as subsequent contract changes.

1.7 Drawings, illustrations, dimensions, weights or other performance data are only binding if this has been explicitly agreed in writing; information of this type is not to be understood as a quality warranty.

2. Prices

2.1 The price of the object of purchase (purchase price) is ex-delivery plant without discount and other reductions plus VAT. Agreed ancillary services (e.g. freight) will be invoiced separately.

2.2 The prices of the order confirmation are based on the day's raw material and labour costs. If these increase then the Seller is entitled to adjust the agreed purchase price accordingly provided that the delivery takes place more than four months after the conclusion of the contract. Accordingly, the Seller is obliged to adjust the prices in the event of cost reductions. Upon request, the Seller will provide proof of both cost reductions and cost increases to the Buyer as soon as and to the extent that they occur.

3. Payment - Delay of Payment

3.1 The purchase price and prices for additional services are due no later than 8 days after receipt of the invoice.

3.2 Payment instructions, cheques and bills of exchange are only accepted after special agreement and on account of performance. The Buyer bears any discount and bank charges.

3.3 The claims of the Seller against the Buyer can only be offset if the counter-claim of the Buyer is undisputed and has been legally established. In addition, the Buyer may only exercise a withholding right if its counter-claim is based on the same contractual relationship. In the case of defects in the delivery, the counter-rights of the Buyer, in particular in accordance with point 7, paragraph 5, sentence 2 remain unaffected.

3.4 If the Buyer's payment is delayed, the Seller is entitled to demand default interest to the amount of the statutory base rate.

4. Delivery and Delay of Delivery

4.1 The delivery is from stock, which is also the place of performance for delivery and any subsequent fulfilment. The goods will be sent to another destination (sale by delivery) at the request and expense of the Buyer. Insofar as not otherwise agreed, the Seller is entitled to determine the method of shipment (in particular transport companies, dispatch, packaging) itself.

4.2 The risk of accidental loss and accidental deterioration of the goods transfers to the Buyer upon delivery at the latest. In the case of sale by delivery, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay transfers to the freight carrier or any other person or institution assigned to effect delivery, upon the delivery of the goods to the freight carrier. If acceptance is agreed, this is definitive for the transfer of risk. Otherwise, the statutory regulations of work contract law apply accordingly to an agreed acceptance. The transfer or acceptance is the identical if the Buyer is in default of acceptance.

4.3 Delivery dates or delivery periods, which can be bindingly or non-bindingly agreed, must be made in writing. Unless otherwise expressly agreed, the deadlines and dates specified by the Seller are not binding. Delivery periods begin with the conclusion of the contract at the earliest. If subsequent changes to the contract are agreed then, if necessary, the agreed delivery date or delivery period can be extended or a new delivery date or delivery period must also be agreed at the same time.

4.4 The start of the delivery period specified by the Seller shall not start until all technical issues have been resolved.

4.5 Six weeks after exceeding a non-binding delivery date or a non-binding delivery period, the Buyer may call upon the Seller to deliver the items. The Seller is deemed to be in arrears upon receipt of the request. If the Buyer is entitled to be reimbursed for damages, these shall be limited to a maximum of 5% of the agreed purchase price in the event of slight negligence by the Seller.

4.6 If the Buyer also wishes to withdraw from the contract and/or request claims for damages instead of receiving the delivery, he must set a suitable deadline for delivery by the Seller once the deadline according to section 4.5 sentence 1 has expired. If the Buyer is entitled to be reimbursed for damages instead of delivery of the items, these shall be limited to a maximum of 25% of the agreed purchase price in the event of slight negligence.

If the Seller is unable to deliver the items due to reasons outside its influence while it is in arrears, it shall be liable according to the limitations of liability agreed above. The Seller is not liable if the damage would have occurred even in the event of punctual delivery.

4.7 If a binding delivery date or period is exceeded, the Seller is already seen to be in arrears when the delivery date or period is exceeded. The Buyer's rights are then determined by section 4.5 sentence 3 and section 4.6.

4.8 Cases of force majeure or operational errors that occur at the Seller or its supplier for which they are not responsible, and that temporarily prevent the Seller from delivering the object of purchase by the agreed deadline or within the agreed period, push back the dates and deadlines named in sections 4.3 to 4.7 for the duration of the disruption caused by these circumstances. If corresponding disruptions result in a delay in performance of more than 4 months then the Seller can withdraw from the contract.

4.9 The Seller remains entitled to make design or shape changes, deviations in the colour tone as well as changes to the scope of

delivery during the time of dispatch, provided that the changes or deviations are reasonable for the Buyer, taking into account the interests of the Seller. If the Seller utilises characters or numbers to identify the order or the object of purchase ordered then no rights can be derived from these alone.

4.10 The right to correct and timely self-delivery remains unaffected if the Seller is not responsible for the failure to deliver.

4.11 Compliance with the Seller's delivery obligations is conditional upon the punctual and proper fulfilment of the Buyer's obligations. The defence of non-performance of contract shall remain reserved.

4.12 The Seller is entitled to deliver or perform services in instalment provided that this is deemed reasonable by the Buyer.

5. Default of Acceptance

5.1 If the Buyer fails to accept the object of purchase for more than 14 days then the Seller is entitled to demand compensation for damages instead of the performance. Other rights of the Seller remain unaffected; in particular the risk of accidental loss and/or accidental deterioration of the object of purchase is transferred to the Buyer at the latest at the time in which the Buyer is delayed.

5.2 If the Buyer defaults on the acceptance of the object of purchase, the Seller is entitled to demand storage costs to the amount of €50 per day, without prejudice to further claims on the part of the Seller. The amount must be increased or decreased if the Seller can prove to the Buyer greater or lesser damage.

5.3 If the Seller requests compensation for damages in accordance with section 5.1, this shall amount to 15% of the purchase price. The compensation amount must be increased or decreased if the Seller can prove to the Buyer greater or lesser damage.

5.4 If the Seller does not assert the rights in accordance with section 5.1 and 5.3, then the Seller can freely dispose of the object of purchase and, notwithstanding any further legal and/or contractual claims such as compensation for damages, in particular, deliver an object of purchase of the same type in its place within an appropriate period.

6. Retention of Title

6.1 The Seller retains the ownership of the object of purchase until the receipt of all payments from the business relationship with the Buyer.

6.2 The goods and the reservation may not be pledged to third parties either nor transferred for security before complete payment of the secured receivables. The Buyer must immediately inform the Seller in writing if a request for the opening of insolvency proceedings is submitted or to the extent that third parties access (e.g., seizures) the goods belonging to the Seller.

6.3 If the Buyer is in breach of the contract, in particular due to failure to pay the due purchase price, the Seller is entitled, in accordance with the statutory provisions, to withdraw from the contract and demand surrender of the goods on the grounds of the retention of title and the withdrawal. If the Buyer fails to pay the due purchase price, the Seller is only entitled to assert such rights if the Seller has previously set the Buyer a reasonable period for payment set without receiving payment or such a period as unnecessary due to the statutory provisions.

6.4 In accordance with (c) below, the Buyer is entitled to resell and/or process the reserved goods in the course of normal business

activity up until withdrawal. In this case, the following provisions apply in addition.

(a) The retention of title extends to the products of processing, mixing or connection of the goods of the Seller to their full value, whereby the Seller is regarded as the manufacturer. If, in the case of processing, mixing or connection with goods of third parties, their retention of title remains, the Seller acquires co-ownership to the ratio of the invoice value of the processed, mixed or connected products. Otherwise, the same applies for the resulting product as for the goods delivered subject to retention of title.

(b) The Buyer hereby assigns claims against third parties arising from the resale of the goods or the product in full or to the amount of any co-ownership share of the Buyer to the Seller in accordance with the previous paragraph by way of security. The Seller herewith accepts the assignment. The obligations of the Buyer specified in paragraph 2 also apply with respect to the assigned claims.

(c) The Buyer remains entitled to collect these claims alongside the Seller. The Seller agrees to not collect the claims as long as the Buyer fulfils its payment obligations toward the Seller, no lack of performance exists and the Seller does not claim the retention of title through the exercise of a right in accordance with paragraph 3. However, if this is the case, the Seller may demand that the Buyer discloses all assigned claims and their debtors, provides all information necessary for collection, submits the associated documents and informs the debtors (third parties) of the assignment. Furthermore, the Seller is, in this case, entitled to revoke the right of the Buyer to the further sale and processing of the goods subject to retention of title.

(d) If the achievable value of the collateral for the claims of the Seller by more than 10%, the Seller will release securities at the choice of the Seller at the request of the Buyer.

7. Defects

7.1 Defect claims on the part of the Buyer require that the Buyer has fulfilled its inspection and warning obligations in accordance with section 377 HGB (German Commercial Code).

7.2 The Buyer's right to defect claims expires within a year; this period begins upon delivery of the object of purchase.

This does not apply in cases of liability due to intent, for damages resulting from injury to life, limb or health resulting from a negligible violations of obligations by the Seller or an intentional or negligible violation of obligations by one of the Seller's legal representatives or vicarious agents, and in the event of liability for other damages resulting from a violation of obligations caused by the Seller's gross negligence or a violation of obligations resulting from intent or gross negligence by one of the Seller's legal representatives or vicarious agents. Sentence 1 of this section does not apply in the event of fraudulent concealment of defects and in the event of recourse by the Buyer based on the regulations regarding the sale of consumer goods; in all cases, the statutory limitation periods apply.

7.3 The Seller is entitled to choose to rectify the defect or to supply the Buyer with a fault-free object of purchase. If the rectification process is not satisfactory, the Buyer is entitled to choose whether to withdraw from the purchase contract or to request a reduction of the purchase price.

7.4 Claims for defects do not exist if the defect that occurred has a causal connection to the fact that the object of the purchase has been subjected to improper treatment or overstrained. General wear and tear cannot be used as a basis for a claim for defects.

7.5 The Seller is entitled to make the subsequent performance owed subject to the condition that the Buyer pays the due purchase price. However, the Buyer is entitled to retain part of the purchase price in appropriate relation to the deficiency.

7.6 Section 8 also applies for any claims for damages and the reimbursement of any costs resulting from a fault in the object of purchase.

8. Liability

8.1 If the Seller is liable for damage caused by ordinary negligence and as per the legal requirements then the liability of the Seller is restricted:

Liability is only assumed in the event of a breach of material contractual obligations such as those that require the Seller to uphold the content and purpose of the purchase contract or those whose fulfillment enable the purchase contract to be enforced in the first place and on whose compliance the Seller can regularly rely. This liability is restricted to the typical damage predictable at the time of conclusion of the contract.

8.2 Regardless of whether the Seller is responsible or not, the Seller's liability in the event of the fraudulent concealment of defects, the assumption of a quality warranty and in accordance with the product liability act remains unaffected.

8.3. Liability in the case of delayed delivery is governed in section 4.

8.4 Personal liability of the Seller's legal representatives, vicarious agents and employees is excluded for any damage caused as a result of their slight negligence. Apart from damages caused by the gross negligence of legal representatives and managers, the regulatory limitation of liability applies for the Seller accordingly in these cases.

8.5 The limitations of liability in this section do not apply to injury to life, body or health.

9. Place of Fulfilment and Jurisdiction and Applicable Law

9.1 The place of performance is the Seller's manufacturing plant at which the object of purchase is delivered, for all other mutual claims the Seller's headquarters.

9.2 For all claims present and future arising out of the business relationship with sales persons, legal persons under public law or special funds under public law, including exchange and cheque demand, the competent court of jurisdiction shall be the Amtsgericht Steinfurt District Court or the Landgericht Münster County Court. The Seller shall have the additional right to assert its claims at the general court of jurisdiction of the Buyer.

9.3 For all legal relations between the Buyer and the Seller, the laws of the Federal Republic of Germany shall apply to the exclusion of all others. The UN Convention on Contracts for the International Sale of Goods from 11.04.1980 (CSIG, Federal Law Gazette. 1989 II. Page 588 f) and the Uncitral convention on international drafts and international promissory notes from 09.12.1988 are excluded.

9.4 Should any provisions pertaining to these General Terms & Conditions or provisions in any other agreement be or become ineffective, the legal effectiveness of the remaining provisions or agreements remain unaffected.