

General Terms and Conditions of Supply of Schuler Fahrzeugbau GmbH

§ 1

Scope

- (1) All supplies, services, offers and order confirmations of Schuler Fahrzeugbau GmbH (hereinafter also referred to as the “Seller”) shall be furnished solely on the basis of these General Terms and Conditions of Supply. These Terms and Conditions of Supply form a component part of all contracts which Seller enters into with its contract partners (hereinafter also referred to as the “Buyer”) relating to the supplies and services offered by Seller. They shall also apply to all future supplies, services and offers to Buyer, even if they are not separately agreed upon again.
- (2) Terms and conditions of business of Buyer or of third parties do not apply, not even if Seller does not separately object to the application thereof in an individual case. Even if Seller refers to a letter containing terms and conditions of business of Buyer or of a third party or making a reference thereto, this does not constitute agreement to the application of such terms and conditions of business.

§ 2

Offer and conclusion of a contract

- (1) All offers of Seller are subject to change and non-binding unless they are explicitly indicated as being binding or contain a specific time period for acceptance.
- (2) The legal relations between Seller and Buyer are governed solely by the purchase order of Buyer and the order confirmation of Seller inclusive of these General Terms and Conditions of Supply.
- (3) Supplements and alterations to the agreements made, including to these General Terms and Conditions of Supply, must be made in writing in order to be effective.
- (4) Details provided by Seller concerning the subject matter of the supply or service (for example vehicle body, vehicle dimensions, chassis, tolerances and technical data) and representations thereof (e.g. drawings and illustrations) are only approximations unless exact conformity is a precondition of usability for the purpose contemplated under the contract. They are not guaranteed characteristics but descriptions or identifications of the supply or service. Variations customary in the trade and variations carried out due to legal regulations or which constitute technical improvements, and the replacement of parts by equivalent parts are permissible insofar as they do not impair the usability for the purpose contemplated under the contract.

- (5) Seller reserves the title or copyright in and to all of the offers and cost estimates it submits and to the drawings, illustrations, calculations, brochures, catalogs, models, tools and other documentation and auxiliary items provided to Buyer. Buyer may not make such items accessible to third parties, disclose them, use or duplicate them itself or through third parties, either as such or the content thereof, without the explicit consent of Seller. At the request of Seller Buyer shall return these items to Seller in full and destroy any copies made if they are no longer required by Buyer in the normal course of business or if negotiations do not result in a contract being concluded.

§ 3

Prices and payment

- (1) The prices apply to the scope of supply and service set forth in the order confirmations. Special services shall be invoiced separately. Prices are in EURO ex works (Uferstrasse 21, 72224 Ebhausen, Germany), plus packaging and statutory value added tax; in case of supplies for export plus customs and charges and other public levies.
- (2) Invoice amounts are payable within thirty days with no deductions whatsoever unless otherwise agreed in writing. The date on which payment is received by Seller determines the date of payment. If Buyer does not make payment on the due date, the outstanding amounts shall bear interest at 5 % p.a. with effect from the due date; this shall not affect the right to claim higher interest and further damage in the event of default.
- (3) The offsetting of counterclaims of Buyer or the withholding of payments based on such claims is only permissible to the extent that such counterclaims are undisputed or established by final and non-appealable judgment.

§ 4

Delivery and delivery date

- (1) Deliveries shall be effected ex works (Uferstrasse 21, 72224 Ebhausen, Germany).
- (2) Delivery periods and delivery dates proposed by Seller shall always only be approximate unless a fixed period or a fixed date has been explicitly agreed. If shipping has been agreed, the delivery periods and delivery dates shall relate to the point of time of handover to the carrier, freight forwarder or other third party engaged to perform the transport.

- (3) Seller may – without prejudice to its rights resulting from the default of Buyer – demand of Buyer that delivery periods and delivery dates be extended or that delivery periods and delivery dates be postponed by that period of time in which Buyer fails to comply with its contractual obligations to Seller.
- (4) Seller is not liable for impossibility of supply or for delays to supply to the extent that these are caused by force majeure or other events which were unforeseeable at the time when the contract was entered into (for example: all kinds of interruptions in operations, difficulties in procuring material or energy for the special vehicles, transport delays, strikes, legal lockouts, shortage of labor, energy or raw materials, difficulties in obtaining necessary official permits, governmental measures – including customs – or non-delivery, incorrect delivery or late delivery by suppliers) which Seller was not responsible for. Insofar as such events make it considerably more difficult or impossible for Seller to furnish the supply or render the service and if the impediment is not of merely temporary duration, Seller has the right to withdraw from the contract. In the event of temporary impediments, the delivery periods and delivery dates shall be extended or postponed by the period of the impediment plus a reasonable lead time. Insofar as Buyer cannot be reasonably expected to accept the delivery or service due to the delay, Buyer may withdraw from the contract by making a statement in writing to Seller without undue delay.
- (5) Seller only has the right to effect part deliveries if
- the part delivery can be used by Buyer in the context of the intended contractual purpose,
 - the supply of the remainder of the goods ordered is assured and
 - Buyer does not incur considerably greater expense of time or additional costs as a result (unless Seller declares that it is willing to pay such costs).
- (6) If Seller is in default with a supply or service or if a supply or service becomes impossible for whatsoever reason, Seller's liability is limited to damages in accordance with the terms of section 7 of these General Terms and Conditions of Supply.

§ 5

Place of performance, shipping, packing, transfer of risk, acceptance

- (1) The place of performance for all obligations under the contractual relationship is the registered office of Seller, unless otherwise provided.
- (2) Risk shall pass to Buyer at the latest upon handover of the subject matter of supply (whereby the commencement of the loading process is decisive) to the carrier, freight forwarder or other third party engaged to perform the shipping. This shall also apply in the event of part deliveries or if Seller has also assumed responsibility for other services such as shipping. If the shipping or the handover should be delayed due to a circumstance the cause of which lies with Buyer, risk shall pass to Buyer with effect from the day on which the subject matter of supply was ready for shipping and Seller notified Buyer thereof.
- (3) Storage costs shall be borne by Buyer after the passing of risk. If the goods are stored by Seller, the storage costs shall amount to 0.25% of the invoice value of the goods to be stored for each week of storage commenced. The right to claim and evidence additional or lower storage costs remains reserved.
- (4) The consignment shall only be insured by Seller at the explicit request of Buyer and at Buyer's expense against the risks of theft, breakage, transport, fire and water damage and against other insurable risks.
- (5) If acceptance is to be performed, the goods for purchase shall be deemed accepted at the latest when Buyer signs the acknowledgment of receipt.

§ 6

Warranty, defects as to quality

- (1) The warranty period shall be for one year with effect from the date of delivery or, if acceptance is necessary, from the date of acceptance.
- (2) The goods delivered shall be inspected carefully without undue delay after delivery to Buyer or to a third party determined by Buyer. The goods shall be deemed approved by Buyer in respect of obvious defects or in respect of other defects which would have been discernable had they been inspected carefully without delay, if Seller does not receive a complaint notification in writing relating to a defect within seven working days after

delivery. With respect to other defects, the goods delivered shall be deemed approved by Buyer if Seller does not receive the complaint notification relating to such defect within seven working days after the date when the defect became evident. At Seller's request an item complained of shall be returned to Seller with carriage pre-paid. If the notified complaint is justified, Seller shall refund the costs of the most economical shipping route; this does not apply if the costs are higher because the goods delivered are located at a place which is different from the place of the intended use.

- (3) In the event of defects as to quality in the goods delivered, Seller has the obligation and the right, at its choice which has to be made within a reasonable period of time, firstly to rectify the goods or to supply a replacement. Since Seller offers complex, high-quality goods it can be possible, in an individual case based on the type of the faulty component or defect or due to other circumstances, that more than two attempts at rectification are required and have to be accepted by Buyer. In the event of their being abortive, i.e. in the event of impossibility, of being unreasonable, of refusal or unreasonable delay in the rectification or supply of a replacement, Buyer may withdraw from the contract or reduce the purchase price appropriately.
- (4) If a defect is due to the fault of Seller, Buyer may demand damages in accordance with the conditions specified in section 7.
- (5) In the event of defects in (construction) components from other manufacturers, which Seller cannot remedy for licensing or other factual reasons, Seller shall, at its choice, assert its warranty claims against the manufacturer and supplier for the account of Buyer or assign them to Buyer. In the event of such defects, warranty claims against Seller only exist subject to the other conditions of and in accordance with these General Terms and Conditions of Supply if judicial enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or if such enforcement is futile, for instance due to insolvency. The limitation period of Buyer's respective warranty claims against Seller shall be tolled for the duration of the litigation.
- (6) There shall be no warranty if Buyer alters the goods delivered without the consent of Seller or has them altered by third parties and remedying the defect becomes impossible or unreasonably difficult as a result. In any case Buyer shall bear the additional costs of remedying the defect arising due to the alteration.
- (7) The supply of used goods agreed with Buyer in an individual case shall exclude any warranty whatsoever for defects as to quality.

§ 7

Liability for damages on account of fault

- (1) The liability of Seller for damages for whatsoever legal ground, in particular due to impossibility, default, defective or wrong supply, breach of contract, breach of duties when conducting contractual negotiations and tort is, insofar as this depends on fault in each respective case, limited in accordance with this section 7.
- (2) Seller is not liable in the event of simple negligence [*einfache Fahrlässigkeit*] by its corporate bodies [*Organe*], statutory representatives, employees or other persons engaged in performance of an obligation [*Erfüllungsgehilfen*], insofar as this does not relate to a breach of material contractual duties. Material to the contract are the obligation to deliver the subject matter of supply punctually and free from defects impairing the proper functioning or suitability for use to a more than merely negligible extent, and advisory and protective duties and duties of care which are intended to enable Buyer to use the goods delivered in accordance with the contract or to protect the life and limb of Buyer's personnel or to protect Buyer's property against considerable damage.
- (3) Insofar as Seller is liable for damages pursuant to section 7 (2) on the basis of the merits of the case, such liability shall be limited to damages which Seller foresaw when entering into the contract as a possible consequence of a breach of the contract or which Seller ought to have foreseen when applying the care customary in the trade. Furthermore, indirect damages, consequential damages and lost profit resulting from defects in the goods delivered are only subject to compensation insofar as such damages can be typically anticipated if the goods delivered are used in accordance with the intended use.
- (4) In the event of liability for simple negligence [*einfache Fahrlässigkeit*] Seller's obligation to compensate for property damage and for further pecuniary damage ensuing therefrom is limited to an amount of EUR 5 million per claim (corresponding to the current coverage amount of its product liability or third party liability insurance) even if a violation of material contractual duties is involved.
- (5) The above exclusions and limitations of liability shall apply to the same extent in favor of the corporate bodies [*Organe*], statutory representatives and employees of Seller and of other persons engaged by Seller in performance of an obligation [*Erfüllungsgehilfen*].
- (6) Insofar as Seller provides technical information or acts in an advisory capacity and such information or advice does not form part of the scope of performance owed by Seller and agreed by contract, this is performed free of charge and excluding any liability whatsoever.

- (7) The limitations of this section 7 shall not apply to the liability of Seller on account of intentional behavior, for guaranteed characteristics, on account of injury to life and limb or damage to health, or in accordance with the German Product Liability Act.

§ 8

Right of withdrawal

- (1) Seller does not assume any procurement risk. Seller has the right to withdraw from the contract if Seller, despite the fact that a purchase contract had been entered into, does not receive the respective materials to manufacture the subject matter of supply; the liability of Seller for intent and gross negligence shall remain unaffected.
- (2) Seller shall advise Buyer without undue delay if the materials will not be available on time and, if Seller wishes to withdraw from the contract, Seller shall exercise its right of withdrawal without undue delay.

§ 9

Reservation of title

- (1) The goods delivered to Buyer by Seller shall remain the property of Seller pending full payment of all secured claims. The goods and the goods they are replaced by which are covered by the reservation of title in accordance with the provisions below shall be hereinafter referred to as “Goods subject to reservation of title”.
- (2) Buyer shall store the Goods subject to reservation of title free of charge for Seller.
- (3) Buyer shall be entitled to process and sell the Goods subject to reservation of title in the normal course of business pending occurrence of an enforcement event (subsection (6)). The pledging and the transferring of the Goods subject to reservation of title as security is inadmissible.
- (4) In the event that the Goods subject to reservation of title are on-sold, Buyer assigns to Seller now already by way of security the resultant claim arising against the purchaser or, in the event of Seller’s holding joint ownership in the Goods subject to reservation of title, an amount in proportion to the share in ownership. The same shall apply to other claims which replace the Goods subject to reservation of title or otherwise arise in respect of the Goods subject to reservation of title, such as, for example, insurance claims or claims in tort in the event of loss or destruction. Seller revocably authorizes Buyer to collect the claims assigned to Seller in Buyer’s own name. Seller may only revoke this collection authorization in case of an enforcement event.

- (5) If third parties seize Goods subject to reservation of title, in particular by means of attachment [*Pfändung*], Buyer shall indicate to such third parties without undue delay that they are the property of Seller and shall notify Seller hereof so as to enable Seller to enforce its ownership rights. Insofar as the third party is not able to refund to Seller the judicial or extrajudicial costs arising in this connection, Buyer shall be liable to Seller in this respect.
- (6) If Seller withdraws from the contract in the event of Buyer's behavior in breach of contract – in particular in the event of default in payment – (“enforcement event”), Seller has the right to demand the return of the Goods subject to reservation of title.

§ 10

credentials

- (1) The buyer agrees that the seller uses his name, his company name, his logo and / or his brands or other business names for advertising purposes and for reference purposes.
- (2) The seller is entitled to take photographs of the objects or services provided by the seller, which are provided with the company identification, logo, company name, design and / or brands, and to provide these in a comprehensive manner in the context of advertising for the to use the products and services he sells for reference purposes and for the purpose of press work for his company. In particular, the seller is entitled to make these photos publicly available on his websites on the Internet and in his websites on social networks, to send them to recipients by newsletter, to copy and distribute them electronically or in print in the form of advertising materials and offer documents for reference purposes and on the occasion of presentations e.g. to exhibit or demonstrate at sales events, trade fairs, congresses and specialist events. The photos may also be passed on to third parties for the purpose of publication in the context of press work and marketing by the seller, e.g. be passed on to journalists (print, radio, online) and other service providers such as letter shops or platforms (e.g. pressebox).

§ 11

Final provisions

- (1) If Buyer is a businessman, a public law legal entity or a public law special fund or if Buyer has no general place of jurisdiction in the Federal Republic of Germany, at Seller's election either the courts of Stuttgart or at the registered office of Buyer shall have jurisdiction and venue over all and any disputes arising from the business relationship between Seller and Buyer. In the event of legal action being taken against Seller, the courts of Stuttgart shall, however, have exclusive jurisdiction and venue.

- (2) The relations between Seller and Buyer are exclusively governed by the laws of the Federal Republic of Germany. The United Nations Treaty on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
- (3) Insofar as the contract or these General Terms and Conditions of Supply should contain any omissions, in order to complete such omissions those legally effective provisions shall be deemed agreed which the contracting parties would have agreed upon in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Supply, had they known of the omission.