

# General Purchase Terms and Conditions of Schmitz Cargobull AG

## 1. General / Sphere of applicability

1.1 The Purchase Terms and Conditions of Schmitz Cargobull AG, hereinafter referred to as "Schmitz Cargobull" shall apply exclusively; conflicting or conditions of the Supplier deviating from Schmitz Cargobull's Purchase Conditions shall not be recognised unless Schmitz Cargobull has expressly agreed in writing to their applicability. Schmitz Cargobull's Purchase Conditions shall also apply inasmuch as Schmitz Cargobull accepts the delivery without reservation in the knowledge of conflicting conditions or conditions of the Supplier deviating from the Purchase Conditions of Schmitz Cargobull.

1.2 All agreements which are made between Schmitz Cargobull and the Supplier for the purpose of execution of this contract shall be recorded in writing in this contract.

1.3 Schmitz Cargobull's Purchase Conditions shall apply exclusively towards companies, legal entities under public law or a special fund under public law in the terms of section 310 sub-section 1 BGB.

1.4 Schmitz Cargobull's Purchase Terms and Conditions shall also apply to all future business with the Supplier.

## 2. Offer / Offer documents

2.1 The Supplier is obliged to accept Schmitz-Cargobull's order within a period of one week.

2.2 Schmitz-Cargobull reserves the rights to ownership of and copyright in images, drawings, calculations, data and data carriers provided, specifications and other documents – hereinafter referred to in brief as "information" - it may not be made accessible to third parties without Schmitz Cargobull's expressed written approval. The Information shall be exclusively used for the production and/or processing of the Schmitz Cargobull order. After the order has been processed, it shall be returned to Schmitz-Cargobull without the necessity of being requested. It shall be kept secret from third parties.

## 3. Prices / Payment conditions

3.1 The price shown in Schmitz-Cargobull's order is binding for the Supplier. For the lack of any deviating written agreement, the price includes delivery "free house" incl. packaging. Return of the packaging requires a special agreement.

3.2 The statutory VAT shall be shown separately on the invoice.

3.3 Invoices shall only be processed by Schmitz-Cargobull if they, corresponding to the requirements in Schmitz Cargobull's order, state the order information shown there; the Supplier is responsible for all consequences arising due to non-observance of this obligation.

3.4.1 Inasmuch as nothing else has been expressly agreed, Schmitz Cargobull shall pay the payment claimed by the Supplier within 14 days, calculated from delivery and receipt of the invoice, at 3% discount or within 30 days of receipt of the invoice net.

3.4.2 In the case of payment claims in connection with services, Schmitz-Cargobull shall pay within 30 days of receipt of invoice.

3.5 Any set-off or retention rights are due to Schmitz-Cargobull in the statutory scope.

## 4. Delivery and performance period

4.1 The delivery period and/or service period stated in the order is binding.

4.2 The supplier is obliged to inform Schmitz-Cargobull without delay and in writing inasmuch as circumstances arise or are recognisable for him from which it ensues that the conditioned delivery and/or service period cannot be observed. Such indication to concern shall be sent to Schmitz Cargobull as quickly as possible in advance by e-mail or facsimile.

4.3 In the case of delay, Schmitz Cargobull is due the statutory rights. In particular, Schmitz Cargobull is entitled, after fruitless expiry of a reasonable period of grace, to demand damages due to non-performance.

## 5. Transfer of risk / Documents

5.1 Inasmuch as nothing else has been agreed, delivery shall take place free house.

5.2 The supplier is obliged to state Schmitz Cargobull's order information exactly on all shipping papers or delivery notes; if he neglects to do so, delays in processing, for which Schmitz Cargobull is not responsible, shall be unavoidable.

5.3 The Supplier shall enable Schmitz Cargobull insight into the progress of the contractual work, e.g. of work to be provided. Schmitz Cargobull is entitled to inform itself at any time about the progress of the contractual work by way of inspection of all relevant documents (reports, descriptions, listings, manuals etc.). The documents required for this shall be presented and explained to Schmitz Cargobull on request.

5.4 If Schmitz Cargobull grants the Supplier access to Schmitz Cargobull's networks and/or data processing systems, such access shall be used exclusively for the purpose of performing the individual service or work concerned. The Supplier undertakes in particular in such cases to observe the provisions concerning secrecy in accordance with no. 2.2 above and to impose them also on his staff members and other third parties involved in execution. Inasmuch as it is not absolutely necessary for fulfillment of the order by the Supplier, he is not entitled, without the previous written approval of Schmitz Cargobull, to copy, modify, reproduce or pass on to third parties Schmitz Cargobull's data accessible to him. Schmitz Cargobull is liable only within the statutory compelling scope for the functionality of access security or for operational disturbances in the aforementioned networks and data processing systems and for any damage resulting from their use.

5.5 The Supplier undertakes to observe the relevant statutory provisions concerning data protection. He shall indemnify Schmitz Cargobull against the claims of third parties on first request which originate from violation of the aforementioned obligation of the Supplier.

## 6. Material and legal defects / Warranty

6.1 Schmitz Cargobull is obliged to check the goods within a reasonable period for any deviations in quality or quantity. The complaint has been lodged in good time if it reaches the Supplier within a period of 14 working days in the case of open defects after delivery to Schmitz Cargobull – in the case of concealed defects, after their discovery at Schmitz Cargobull. If there is a quality assurance agreement with regard to the defect examination and complaint duties to be fulfilled by Schmitz Cargobull, if relevant, the separate provisions concerning control on receipt shall apply.

6.2 The statutory warranty claims are due to Schmitz Cargobull without being reduced.

6.3.1 In particular the supplier is responsible in accordance with sections 433 sub-section 1, p. 2 and 434 BGB (purchase) or section 633 sub-section 1, 2 and 3 BGB (contract for work and services) for the fact that the delivered goods or the owed work performance correspond to the statutory and agreed quality and packaging conditions, the specification, for the lack of such at least the commercially customary quality conditions and is free of material and legal defects or errors in the terms of the law, in particular the Product Liability Act. The Supplier warrants that, through the distribution of the delivered goods and/or through the use of the contractual service, there is no violation of the applicable regulations including the packaging and labelling regulations, rights of third parties are not violated and/or the goods and/or work performance suffice legal competition and requirements under public law.

Existing and/or enclosed labelling concerning properties/composition, durability, designations, descriptions, accompanying papers and/or advertising statements and instructions for use and assembly shall be composed with correct content, legally faultlessly, completely, comprehensibly and in the German language and this shall be warranted by the Supplier.

6.3.2 The provisions of nos. 6.2, 6.3.1 above shall apply correspondingly for services provided by the Supplier, in particular consultancy services.

6.3.3 No. 8 shall apply in addition in respect to any protective rights.

6.4 Inasmuch as the Supplier violates duties, he shall be liable towards Schmitz Cargobull for any type of fault. The Supplier's attention is drawn to the fact that he has the right to prove that he is not responsible for a violation of duty.

6.5 Schmitz Cargobull is only obliged to clarify claims or legal violations maintained by customers in court inasmuch as the Supplier promises refund of the costs to be expected for that in advance.

6.6 If the contractual work provided by the Supplier (delivered goods, work carried out, service etc.) does not correspond to the aforementioned prerequisites, Schmitz Cargobull is in particular entitled to optionally demand subsequent performance by way of elimination of defect or delivery of an item free of defects (purchase) or elimination of defects or new production of the work (contract for work and services). The expenditure necessary for the purpose of subsequent performance shall be fully borne by the Supplier.

6.7 Schmitz Cargobull is entitled to carry out the subsequent performance itself at the expense of the Supplier inasmuch as there is imminent risk or particular need for urgency.

6.8 In the case of failure of subsequent performance, Schmitz Cargobull is due the statutory material defect claims; this applies in particular for claims for damages due to non-performance.

6.9 The warranty period amounts to 36 months calculated from the transfer of risk inasmuch as no longer warranty period evolves from the contract or from law.

## 7. Product liability / Indemnification / Liability insurance protection

7.1 Inasmuch as the Supplier is responsible for product damage, he is obliged to indemnify Schmitz Cargobull against claims for damages by third parties on first request if the origin is to be found within his sphere of control and organisation and he is liable in the external relationship.

7.2 The above no. 7.1 shall apply correspondingly inasmuch as Schmitz Cargobull is due claims against the Supplier in accordance with sections 478, 479 BGB. Within this framework, the Supplier shall assign as a precaution any recourse claims to Schmitz Cargobull which are due to the Supplier towards his sub-suppliers from sections 478, 479 BGB to secure any recourse claims of Schmitz Cargobull in advance. Schmitz Cargobull shall accept the assignment.

7.3 The supplier is obliged towards Schmitz Cargobull to refund any expenditure which may arise from or in connection with a recall campaign carried out by Schmitz Cargobull. Schmitz Cargobull shall agree the content and scope of the recall measures to be carried out with the Supplier – as far as possible and reasonable – inform him and give him the opportunity to state his opinion.

7.4 The Supplier undertakes to maintain a product liability insurance with cover of at least 5 million euros per personal or material claim – lump-sum. (note: alternatives shall be discussed). If Schmitz Cargobull is due further-reaching claims for damages, these shall not be affected. On demand by Schmitz Cargobull, the insurance protection shall be verified.

## 8. Protective rights

8.1 The Supplier guarantees that, in connection with his delivery and services, no rights of third parties, in particular copyright, are violated within the Federal Republic of Germany or Europe. The Supplier warrants that any work provided by him is free from the rights of third parties and indemnifies Schmitz Cargobull against all claims of third parties. If the commercial protective rights of third parties are violated by the work and if Schmitz Cargobull is prohibited from fully or partly using the work, the Supplier shall optionally either enable Schmitz Cargobull the right to use and/or utilisation of the work or render the work free of protective rights. Any further-reaching claims of Schmitz Cargobull are not affected by this (note: alternatives shall be discussed).

8.2 If Schmitz Cargobull is subject to claim by a third party due to violation of protective rights, the Supplier is obliged to indemnify Schmitz Cargobull against these claims on first request. The Supplier's obligation for indemnification also refers to all expenditure which arises for Schmitz Cargobull from or in connection with availing by a third party.

8.3 The aforementioned regulations of nos. 8.1 and 8.2 shall also apply correspondingly for service contracts.

## 9. Reservation of title / Provision / Secrecy

9.1 Inasmuch as Schmitz Cargobull provides components for the Supplier, Schmitz Cargobull reserves the ownership of these. Any processing or conversion by the Supplier shall always be carried out for Schmitz Cargobull.

9.2 If the item provided by Schmitz Cargobull is inseparably mixed with other objects not belonging to Schmitz Cargobull, Schmitz Cargobull shall acquire co-ownership in the new item in the ratio of the work of the reserved item to the other mixed objects at the point of time of mixing taking place. If mixing takes place in the manner that the Supplier's item can be regarded as the main item, it is agreed that the Supplier shall proportionally transfer co-ownership; the Supplier shall maintain the sole ownership or the co-ownership for Schmitz Cargobull.

9.3 The Supplier shall notify Schmitz Cargobull of any damage or incompleteness of the goods provided without delay. The Supplier is liable towards Schmitz Cargobull for any material loss and/or damage in accordance with the stipulations of the statutory provisions

9.4 The Supplier is obliged to keep strictly secret the information received in processing the order in the terms of the aforementioned no. 2.2. It may be disclosed to third parties only with the expressed written approval by Schmitz Cargobull. This secrecy obligation shall also apply after the end of the contract; it shall lapse only when and inasmuch as the production and business knowledge contained in the information provided has become generally known.

## 10. Place of jurisdiction / Place of performance

10.1 Inasmuch as the Supplier is a businessman, a legal entity under public law or a special fund under public law, the business seat of Schmitz Cargobull shall be the place of jurisdiction; Schmitz Cargobull is, however, entitled to take legal action against the Supplier at the court at his place of residence.

10.2 Inasmuch as nothing else ensues from the confirmation of order, the business seat of Schmitz Cargobull is the place of performance

## 11. Selection of law

11.1 German law shall apply including the United Nations Convention on Contracts for the International Supply of Goods (CISG), however always in accordance with the stipulations of the content of these purchase conditions.