

## Terms and Conditions of Delivery and Sale (06/2023)

These General Terms and Conditions of Delivery and Sale of Gföllner Fahrzeugbau und Containertechnik GmbH, hereinafter referred to as „Seller“, are designed for any transactions between companies. Should they, in exceptional cases, be used as a basis for legal transactions with consumers within the meaning of Section 1 of the Austrian Consumer Protection Act, Federal Law Gazette 140/79, then they shall only apply to the extent that they do not contradict the provisions of the first main part of this Act. Other or supplementary terms and conditions of Buyer shall only apply if they are confirmed in writing by Seller.

### 1. Scope of Application

- 1.1 The scope of these General Terms and Conditions of Delivery and Sale shall include all quotations, legal transactions and other services of Seller. As part of ongoing business relationships, these General Terms and Conditions of Delivery and Sale shall apply to future services even if they are not expressly agreed in each individual case. Any deviating agreements shall only be valid if made in writing. Any (general) terms and conditions of purchase of Buyer shall hereby be rejected; these shall not bind Seller even if Seller does not object to them again at the conclusion of the contract.
- 1.2 All quotations and cost estimates, as well as specifications in brochures, advertisements or on the Seller's website shall be subject to confirmation, without binding effect. We do not assume any liability for the accuracy of the cost estimate.

### 2. Prices

The Seller's prices are (euro) net prices ex works/location of Seller without packaging, freight, insurance, discount and VAT plus any price increases caused by the increase in production costs (materials, energy, wages, general expenses, etc.) between order and delivery.

### 3. Conditions of Payment, Reservation of Title

- 3.1 Unless otherwise agreed in writing, the Seller's claim shall be paid upon invoicing. All payments shall be made free of charge and without discount. In the event of default in payment, Seller shall be entitled to charge interest on arrears at a rate of 8% above the applicable prime rate of the Austrian National Bank. In the event of a delay in acceptance of more than 14 calendar days after notification of completion of the delivery item, Seller shall invoice the costs and expenses incurred. Cheques and bills of exchange shall only be accepted by special agreement and only on account of payment, not in lieu of performance. All ancillary costs of the contract, such as shipping costs, financing costs, costs for securing the purchase price claim in the land register, fees, interest and the like must be borne by Buyer.
- 3.2 Set-off of claims of Buyer against Seller are excluded. In addition, Buyer is not entitled to retain payments due to warranty claims or other claims not recognised by Seller. Any payments from Buyer are set off against the Seller's payments in the following order: repair costs, claims due to spare part requirements, interests, other ancillary costs and lastly, goods under the retention of title.
- 3.3 If, after the conclusion of the contract, circumstances become known that cause reasonable doubts as to the solvency or willingness of Buyer and if Buyer fails to meet the obligation to perform an advanced payment or provide a corresponding security (at the Seller's discretion), then Seller shall be entitled to retain services at their own discretion or to withdraw from the contract in whole or in part, without accepting the resulting costs of any nature.
- 3.4 In the event of payment default and/or breach of a contractual provision by Buyer, a deadline is considered missed. In addition, Seller shall be entitled to immediately withdraw from the contract. For the default case, the legal contractual interest rates shall apply. The right of Seller to assert further claims for damage shall not be affected by this.
- 3.5 The object of purchase and its parts shall remain the sole property of Seller (property under the retention of title) until full settlement of all obligations of Buyer relating to each transaction (payment) even if some parts are already paid. As long as Seller retains ownership, a sale, pledge, transfer by way of security, lease or other transfer of the object of purchase shall not be allowed without their written consent. If Buyer fails to fulfil their payment obligations in whole or in part, they will be in debt or insolvent or if an application for financial equalisation or bankruptcy over the Buyer's assets is pending, then Seller has the right, but is not obligated, to take the object of purchase itself and to assert any other rights to the retention of title immediately.
- 3.6 Seller shall be entitled to retain the single licence notification until full settlement of all obligations of Buyer relating to any transaction.
- 3.7 If there have been any claims on the Seller's retained title asserted by third parties, Buyer is obliged to notify Seller immediately thereof by registered letter and defend the Seller's title appropriately at their own expense.
- 3.8 During the period of retention of title, Buyer is obliged, on the request of Seller, to insure the object of purchase for the original price against all risks, including fire. The transferability of the insurance policies shall be restricted to Seller only.
- 3.9 During the period of retention of title, Buyer is obliged to keep the object of purchase in good condition and to immediately carry out the necessary repairs performed - except for emergencies - in the Seller's repair workshop or at an approved workshop.
- 3.10 If the contractual partner fails to fulfil the contractual obligations, Seller shall be entitled to assert their rights arising from the retention of title and without recourse to judicial assistance. In particular, the contractual party authorises

Seller to remove the delivery item. The contractual partner also acknowledges that the removal does not, unless Seller declares otherwise, constitute a withdrawal from the contract but merely a securing of the delivery item. Such removal shall not give rise to any claims whatsoever on the part of the contractual party against Seller.

#### 4. Delivery

- 4.1 In general, the delivery dates given by Seller shall be subject to confirmation.
- 4.2 The delivery deadlines shall commence after full payment of the agreed deposit.
- 4.3 In the case of an agreed change of a specific order, Seller shall be entitled unilaterally to set a new delivery date.
- 4.4 Seller reserves the right to changes in design and form during the delivery period.
- 4.5 Any Buyer's claims for failure to perform or for delay shall be excluded, provided that such circumstances were not caused by any intentional or grossly negligent fault of Seller.
- 4.6 Seller shall not be liable for any case of force majeure as well as war, civil unrest, official measures and operational disruption, lockouts, complete or partial shutdown of the Seller's work as well as the work of a third party, for whatever reason. If the event lasts longer than 6 months, Seller is entitled to withdraw from the contract. In this case, claims for compensation by Buyer are also excluded.
- 4.7 Seller reserves the right to withdraw from the contract or to demand advanced payment if, after order confirmation and before delivery, circumstances of the economic situation of the contracting party become known as a result of which the Seller's claim no longer appears to be sufficiently secured.

#### 5. Fulfilment

- 5.1 Any obligations regarding deliveries and services of Seller are deemed as fulfilled:
  - 5.1.1 ex works: upon notification of dispatch. Buyer is obligated to accept the object of purchase immediately after notification of dispatch.
  - 5.1.2 with agreed place of performance/delivery: with the dispatch from the Seller's premises.
  - 5.1.3 with the handover of the delivery item to the contractual partner or a third party designated or authorised by the contractual partner
- 5.2 Any risks and hazards, including those of accidental loss, shall pass over to Buyer upon fulfilment. If an agreed collection date ex works is exceeded by Buyer, then a storage fee may be charged.
- 5.3 If not agreed otherwise, Buyer is obliged to check and accept the object of purchase immediately after they have received the notification of availability for collection at the agreed place of acceptance. If the acceptance does not take place within 8 days, the object of purchase shall be deemed duly accepted.
- 5.4 Should Buyer expressly or implicitly waive a checking of the object, then the object of purchase shall be deemed to be duly accepted upon leaving the Seller's works.
- 5.5 If the contractual partner fails to fulfil the contractual obligations, in particular payment of the purchase price or handing over of the vehicle, Seller may, after setting a grace period of 14 days, withdraw from the contract, demand compensation for non-fulfilment, including loss of profit, or demand a cancellation fee at the rate of 15 % of the agreed purchase price. A judicial right of moderation is expressly excluded.

#### 6. Warranty and Liability

- 6.1 Unless agreed otherwise in what follows, the statutory warranty and liability provisions shall apply. Only characteristics which are labelled and expressly agreed by Seller are warranted characteristics within the meaning of Section 922 (1) of the Austrian General Civil Code (ABGB). Product specifications, brochures and details given by Seller (or a third party manufacturer) etc. shall not be deemed warranted characteristics. In the case of repair, a warranty is only provided for replaced parts. No warranty is provided for wear and tear (parts) and used vehicles or used purchased items. Natural wear and tear and damage caused by negligence, improper handling or accidents are excluded from the warranty. The period of warranty shall be 2 years.
- 6.2 The warranty period shall commence with fulfilment of the order. The warranty lapses if Buyer resales the object of purchase, if the object of purchase has been altered by another party or by the installation of third party parts, or if Buyer does not follow the rules on the treatment of the vehicle or goods according to the operating instructions (especially if the permissible gross weight, the permitted maximum axle loads, the payloads or chassis carrying capacity are exceeded or the required inspections are omitted).
- 6.3 Any other warranty claims must be notified to Seller within 14 days from noticing the defect, stating the type and extent of the defect in writing (notification of defects). The application of Sections 924, 933b Austrian General Civil Code shall be excluded. The existence of a defect at the time of transfer shall be proven by transferee (Buyer).
- 6.4 A claim for rescission or reduction is excluded. Claims for compensation against Seller caused by direct or indirect damage are expressly excluded. It shall be left to the Seller's discretion whether to comply with a warranty obligation by improvement or replacement. For the improvement or replacement, Buyer is obliged to grant sufficient time and opportunity to a reasonable extent. If they refuse or if time and opportunity are restricted in an inappropriate manner, Seller shall be exempt from their warranty obligations. In all cases, only parts will be replaced. The wages and costs incurred for installation and removal, as well as costs arising from the transfer of vehicles and equipment to the supplier's works or to the authorised service centre for the purpose of fulfilling the Seller's warranty obligation must be borne by Buyer. Any warranty claims must be notified and/or asserted in the Seller's works or in a service centre that has been authorised by Seller.
- 6.5 Seller is not liable for damage to or destruction of the Buyer's vehicles or equipment taken into custody as a result

of natural events (including but not limited to storm, hail, lightning, high water, floods, avalanches or earthquakes).

## 7. Compensation and Product Liability

- 7.1 Any claims for damages are excluded in cases of slight negligence. The existence of gross negligence must be proven by the party having suffered damage. All claims for damages becomes statute-barred from the moment that the damage and the party causing the damage are known within 1 year after the expiration of the warranty period.
- 7.2 Other claims of Buyer, of whatever kind, shall - with the exception of gross negligence by Seller - be excluded. The burden of proof for the existence of gross negligence lies with Buyer.
- 7.3 Seller shall not be liable for property damage under the Austrian Product Liability Act and product liability claims which can be derived from other provisions.
- 7.4 If Buyer of the object of purchase is in turn a seller, their right of recourse shall be expressly excluded according to Section 12 Austrian Product Liability Act.
- 7.5 The object of purchase provides only that level of safety/security that can be expected on the basis of approval regulations, manuals, instructions from the Seller's works on the treatment of the delivered item (operating Instructions) - particularly with regard to the required inspections - and all other instructions given.
- 7.6 It should clearly be stated that the information in the specifications on performance, weights, operating costs, speeds, etc. be regarded as approximate and non-binding.

## 8. Avoidance on the ground of error

Buyer and Seller mutually waive the right to appeal against any legal transactions on the ground of error within the meaning of Section 871 Austrian General Civil Code.

## 9. Severability Clause

Should any provisions of these General Terms and Conditions of Delivery and Sale be or become wholly or partially invalid, all remaining provisions of these General Terms and Conditions of Delivery and Sale shall remain effective. The ineffective provision shall be replaced by another provision that is effective and comes as close as possible to the economic content and purpose of the invalid provision.

## 10. Place of Jurisdiction

All orders, in particular those subject to these General Terms and Conditions of Delivery and Sale, shall be governed exclusively by Austrian law; this shall apply in particular to the exclusion of international rules of reference or conflict of laws and the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all disputes arising from or in connection with the order shall be the competent court at the Seller's registered office.