

## Terms and Conditions

for the delivery of customisations, e.g. bodyworks, tippers, cranes, rolling hooklifts, lift dumpers and tanker customisations, etc. and trailers

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LASTFORDONSGRUPPEN



För bilbranschens bästa

### Scope of Application

1. These general terms and conditions shall apply when the parties have so agreed, in writing or in any other manner. Deviations from the terms shall be agreed in writing in order to be valid.

### Definitions

2. In these terms, the expression "Goods" shall mean:

Materials and other objects together with the work that the seller shall deliver and perform, respectively, under the agreement.

When used in these terms, the expression "written" or "in writing" shall mean a document signed by both parties or a letter, electronic mail or other forms of communication agreed by the parties.

### Product Information

3. Information in marketing material, product information and price lists are binding only insofar as they are expressly referred to in the agreement.

### Applicable Laws, etc.

4. The seller shall inform the buyer of applicable laws and regulations and is obliged to perform adjustments following changes in legislation or common practice which are implemented up to the time of delivery. The buyer shall compensate the seller for such adjustments in accordance with the seller's applicable standard rates for such work.

In order to certify that the Goods comply with the provisions in the EU Machinery Directive, the seller shall issue a Declaration of Conformity and provide CE-marking with respect to the Goods.

### Liability for Received Property

5. The seller shall take proper care of chassis and other property which the buyer has handed to the seller and the seller has received. The Goods shall be

deemed received only when the seller has confirmed that the Goods have been received. The seller is liable for damage on such property, unless he can show that he has not been negligent.

The parties may agree that the seller shall procure insurance with respect to the received property.

### Delivery Terms

6. Unless otherwise agreed, delivery terms are "Ex Works" ("from factory") in accordance with the INCOTERMS applicable at the time of the agreement.

### Training

7. If it has been agreed that the seller shall provide training of the buyer's personnel, then such training, unless otherwise agreed, shall be performed at the seller's premises.

### Time of Delivery

8. In the event of delayed delivery due to any event referred to in clause 29 caused by adjustment works following changes in legislation which has occurred after ordering and of which the seller was not aware, or should have been aware of, at the time of the order or due to an act or omission on the buyer's side, including but not limited to delayed supply to the seller of the chassis or other property, then the time of delivery shall be reasonably extended taking into consideration the circumstances. This shall apply regardless of whether or not the cause of delay has occurred prior to or after the expiry of the originally agreed time of delivery.

9. If the seller does not deliver the Goods in time, then the buyer is entitled to liquidated damages from the day when delivery should have occurred. If the seller can show that somebody else has caused the delay, e.g. the supplier of an important component for the Goods, then the liquidated damages shall be limited to the amount that the seller will be able to obtain from

the defaulting party.

The liquidated damages shall, for each completed week of the delay, be calculated on the part of the agreed price which relates to the part of the Goods that cannot be used as intended due to the delay in question.

The liquidated damages shall amount to 0.5 per cent per week during the first five weeks and shall amount to 1 per cent per week for the weeks thereafter.

The liquidated damages shall not exceed 7.5 per cent of the basis for calculation, as set out in the second paragraph above.

The liquidated damages fall due for payment upon written demand by the buyer, however at the earliest when all Goods have been delivered or at the time of termination according to clause 10.

The buyer forfeits its right to liquidated damages if he has not made a claim hereof within six months after the delivery should have occurred.

**10.** If the time has expired for which maximum liquidated damages shall be calculated under clause 9 and the Goods have yet not been delivered, then the buyer is entitled, by written notice to the seller to this effect, to demand delivery within a final reasonable time limit, which may not be shorter than a week.

If the seller fails, other than due to a cause for which the buyer is responsible, to deliver within said time limit, the buyer is entitled to terminate the agreement, by written notice to the seller to this effect, with regard to such part of the Goods which could not be used as intended.

If the buyer terminates the agreement, he is in addition entitled to compensation for the loss suffered due to the seller's delay, in addition to the maximum liquidated damages he could have claimed under clause 9. The damages shall not exceed 7.5 per cent of the part of the price which relates to the part of the Goods to which termination relates. If the seller can show that someone else has caused the delay, e.g. a supplier of an important component for the Goods, then the damages shall be limited to the amount which the seller is able to obtain from the defaulting party.

Other than liquidated damages under clause 9 and limited compensation under clause 10, any other claim from the buyer due to the seller's delay is hereby fully excluded.

### **Buyer's Delay**

**11.** If the buyer does not provide the chassi or other property which he has undertaken to provide under the agreement, then the seller is entitled to liquidated damages from the day when such property should have been provided. If the buyer can show that

somebody else has caused the delay, e.g. the supplier of the chassi, then the liquidated damages shall be limited to the amount which the buyer is able to obtain from the defaulting party.

The liquidated damages shall, for each completed week of the delay, be calculated on the part of the agreed price related to the part of the Goods which is intended for the delayed property.

The liquidated damages shall amount to 0.5 per cent per week for the first five weeks and to 1 per cent per week for the weeks thereafter.

The liquidated damages shall not exceed 7.5 per cent of the basis for calculation, as set out in the second paragraph above.

The liquidated damages fall due for payment upon written demand by the seller.

The seller forfeits its right to liquidated damages if he has not made a claim hereof within six months after the buyer should have provided the property in question.

**12.** If the time has expired for which maximum liquidated damages shall be calculated under clause 11 and the property has yet not been provided, then the seller is entitled, through written notice to this effect, to demand that the property is provided within a final reasonable time limit, which may not be shorter than a week.

If the buyer fails, other than due to a cause for which the seller is responsible, to provide the property within said time limit, then the seller is entitled to terminate the agreement, by written giving notice to the buyer to this effect, with regard to such part of the Goods which relates to the delayed property.

If the seller terminates the agreement, he is in addition entitled to compensation for the loss suffered due to the buyer's delay, in addition to the maximum liquidated damages he could have claimed under clause 11. The damages shall not exceed 7.5 per cent of the part of the price which relates to the part of the Goods to which the termination concerns. If the buyer can show that somebody else has caused the delay, e.g. the supplier of the chassi, then the damages shall be limited to the amount which the buyer is able to obtain from the defaulting party.

Other than liquidated damages under clause 11 and limited compensation under this clause, any other claim from the seller due to the buyer's delay is hereby fully excluded.

**13.** If the buyer fails to take delivery of the Goods on the prescribed date, then he is nevertheless liable to make each and every payment which has been made dependent upon delivery, as if the Goods in question

had been delivered. The seller shall arrange for storage of the Goods at the buyer's sole risk and cost. The seller shall at the buyer's request insure the Goods at the buyer's cost.

**14.** The buyer shall immediately inform the seller in the event of possible delays as per clauses 11 and 13.

**15.** Unless the buyer's omission, as indicated in clause 13, is caused by an event referred to in clause 29, the seller is entitled to demand in writing that the buyer takes delivery of the Goods within reasonable time.

If the buyer, regardless of reason, fails to take delivery within such time limit, then the seller is entitled, by written notice to the buyer to this effect, to terminate the agreement with respect to such part of the Goods, which due to the buyer's omission has not been received, and to damages from the buyer for loss caused by the buyer's omission. The damages shall not exceed 7.5 per cent of the part of the price which relates to the part of the Goods to which the termination concerns.

#### **Price and Payment**

**16.** 10 per cent of the agreed price shall be invoiced at the time of entering into of the agreement.

Unless otherwise agreed, payment shall be made against invoice, payable within 30 days from the invoice date.

Unless otherwise agreed, the agreed price, with deduction for any prepayments and with addition of value added tax (where applicable), shall be invoiced at the delivery of the Goods.

If required by the buyer, the seller shall provide security/collateral for the advance payment under this clause 16. The cost of the security/collateral shall be borne by the buyer.

**17.** In the event of payment delays, then the seller is entitled to penalty interest in accordance with the Swedish Interest Act (Sw: Räntelagen (1975:635)).

#### **Retention of Title**

**18.** Insofar as retention of title is valid under law, the Goods shall remain the property of the seller until it has been fully paid.

#### **Liability for Defects**

**19.** The seller undertakes, in accordance with the below clauses 20–28, to remedy all defects caused by faulty construction, materials, manufacturing or assembly.

**20.** The seller's liability is limited to defects which appear during a period of twelve months from the day the Goods were delivered, or, when the buyer is regarded as a reseller, from the day when the buyer

delivers the Goods onward to its own customer.

The seller's liability is limited to defects which arise under the work circumstances which can be foreseen under the agreement and is subject to proper use by the buyer. The seller excludes liability for any defects caused by improper maintenance or assembly on the buyer's side, as well as for adjustments made without the seller's written approval or improper repair work by the buyer. In addition, defects caused by normal wear and tear or deterioration are excluded from liability.

**21.** After rectification of defects, the same liability period shall apply as for the original parts, i.e. the liability period will not be extended.

**22.** The buyer shall notify (Sw: "reklamation") the seller in writing of any defects without undue delay after the defect has occurred and in no event later than two weeks after the expiry of the liability period indicated in the first paragraph of clause 20. Notices shall contain a description of the defect and its nature.

If the buyer does not notify the seller in writing of the defect within the limits prescribed above, then the buyer forfeits the right to make any claim with regard to the defect in question.

**23.** After receipt from the buyer of a notice of defects as indicated in clause 19, the seller shall, at its own cost, rectify the defect in a professional manner and within such time as is required having regard to the circumstances at hand. Rectification of defects can be made by the seller or be procured by the buyer, all in accordance with the provisions set out below in this clause.

Rectification procured by the buyer shall be made at service locations approved by the seller. The seller shall compensate the buyer for its costs in accordance with paragraph five below.

The buyer is entitled, without prior contact with the seller and at the seller's cost, to remedy defects – itself or through other person having adequate knowledge - in the Goods which require a maximum of 3 hours of service workshop work. During such rectification, the cost of added spare parts may not exceed an amount corresponding to 3 hours of service workshop work.

For rectification of urgent defects which occur outside the opening hours of the seller's service workshop and service workshops approved by the seller, the buyer is entitled to compensation by the seller for repair time and added spare parts, as deemed reasonable by the seller. This shall however not apply with respect to rectification in accordance with the third paragraph.

In the event of claims for compensation for costs for rectification of defects in accordance with the second, third or fourth paragraphs of this clause, then the buyer shall provide documentation indicating the remedied items. The compensation shall not exceed the respective vehicle manufacturer's hourly rates for warranty repairs applicable at the time.

If the defect cannot be remedied through the buyer, then the buyer shall at its own cost, after contact with the seller, provide the Goods – the vehicle, as the case may be – to the seller.

**24.** The buyer shall retain defective parts which are changed in accordance with clause 19 in order to be able to send them, at the seller's request, to the seller within 3 months from the remediation. In case the seller provides spare parts to the buyer, or wishes to have the changed parts returned, then the seller shall be responsible for the transport, in both directions, if the seller has caused the defect.

**25.** In the event that the seller, despite having been duly requested by the buyer, has not fulfilled its obligations according to clause 23 within reasonable time, then the buyer is entitled to either a reasonable deduction of the price or to procure the necessary repairs or manufacture new goods at the seller's risk and cost, provided, however, that he acts with proper judgement.

If the defect is of a substantial nature (Sw: "väsentligt"), then the buyer is instead entitled to terminate the agreement through written notice to the seller to this effect. Upon termination, the buyer is entitled to compensation for loss suffered by him. The compensation shall however not exceed 15 per cent of the agreed price.

**26.** The seller is not responsible for and excludes liability for defects caused by materials provided by the buyer or construction prescribed by the buyer.

**27.** The seller has no liability for defects beyond what is stated in clauses 19-26. The seller is consequently not liable to compensate the buyer for loss of production, lost profit or other economical consequential loss due to defective Goods. This limitation of the seller's liability shall not apply in the event that the seller has acted with gross negligence.

**28.** With respect to certain separately listed or otherwise indicated components which are not manufactured by the seller (e.g. tyres, axles, clutch devices), the respective subcontractor's liability for defects shall apply. Unless otherwise agreed, notification with respect to defects in such components shall however be made to the seller.

#### **Release of Liability (Force Majeure)**

**29.** The following events shall constitute grounds for release of liability, if the fulfilment of the agreement is

hindered or becomes unreasonably onerous: labour conflict and every other circumstance, which the parties cannot control; such as fire and natural disasters and extreme natural events, wars, pandemics, mobilisations or corresponding unforeseen military callups, acts of terrorism, requisitions, seizures, trade and currency restrictions, revolts and riots, shortage of transportation, general shortage of goods, power shortage or restrictions and defects in or delays in deliveries from subcontractors caused by any such release event.

The above events shall constitute an event of release only if their effect on the due performance of the agreement could not be foreseen when the agreement was entered into.

**30.** A party wishing to invoke an event releasing it from liability, shall without delay inform the other party in writing upon the occurrence of the event as well as its cessation.

If such an event prevents the buyer from taking delivery of the Goods, then he shall compensate the seller for costs and expenses caused in order for the seller to secure and protect the Goods.

**31.** Notwithstanding anything to the contrary herein contained, each party is entitled to terminate the agreement by giving the other party written notice to this effect, in the event that the performance of the agreement has been hindered for more than three months due to an event of release as indicated in clause 29.

#### **Arbitration, Applicable Law**

**32.** Disputes in connection with the agreement shall be finally settled under the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. If the amount at dispute does not exceed SEK 1,000,000, then the dispute shall be resolved in accordance with the Rules for Expedited Arbitration.

Unless otherwise agreed, the place of arbitration shall be Stockholm, Sweden.

**33.** The agreement shall be governed by the laws of Sweden.