

CLEANMAT TRUCKS

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

of

Clean Mat Trucks B.V.

with its principal place of business in Andelst, filed with the Chamber of Commerce

ARTICLE 1. DEFINITIONS

- Clean Mat Trucks B.V. and Clean Mat Truck Verhuur B.V. and their affiliated operating companies, as well as their successors by universal title are the users of these general terms and conditions and will hereinafter be referred to as: 'we' and 'us'.
- 'Other party' and/or 'client' are understood to be every person or legal entity to whom we address our offers, as well as those who address their offers to us and those who instruct us, or those with whom we enter into an agreement, as well as those with whom we maintain a legal relationship and, in addition to this, their representative(s), authorised person(s), successor(s) in title and heir(s).
- 'Products' and/or 'vehicles' are understood to be all products and/or (second-hand) vehicles, means of transport, trucks (components), parts etc which are delivered to the other party subject to these general terms and conditions, as well as the performance of services and work (including repairs) and/or the issue of advice by us to the other party.

ARTICLE 2. APPLICABILITY

2.1 These general terms and conditions are applicable to all our offers, agreements, agreements for services (to be provided by us), as well as all legal acts, deliveries and work performed by us, including all pre-contractual situations and legal relationships to be entered into with us in the future with regard to e.g. the sale of second-hand commercial and other vehicles, trucks, truck components, (second-hand) means of transport, parts and accessories, as well as the adjustment and production of chassis and cabins, the design and production of components, carrying out repairs, maintenance and other work on the products and/or vehicles.

2.2 Deviations from and additions to these general terms and conditions only bind us if agreed in writing.

2.3 If one or more provisions in these general terms and conditions are contrary to the law, the other provisions in these general terms and conditions remain in full force.

ARTICLE 3. OFFERS

3.1 All our offers and quotations are subject to contract, unless they contain an acceptance term, in which case the offer will lapse upon expiry of that term.

3.2 Changes and/or promises made by us verbally or in writing after the offer constitute a new offer, as a result of which the previous offer lapses.

3.3 All offers and quotations are based on execution of the agreement by us under normal conditions and during normal working hours, unless explicitly agreed otherwise in writing.

ARTICLE 4. FORMATION

4.1 If our offer is without obligation, the written agreement is formed the moment we receive written acceptance of this offer and, if the other party makes an offer and/or issues an instruction, the moment we accept the offer and/or the instruction, or when we have made a start with the execution of the instruction.

4.2 If our offer is irrevocable, the agreement is formed the moment we receive acceptance of this offer from the other party within the term set by us.

4.3 If acceptance by the other party deviates from the offer, it is regarded as a new offer from the other party and as rejection of the entire offer made by us, also if it only concerns a deviation on minor points.

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4.4 Additional agreements, changes and/or promises made by our staff, representatives, salesmen or other intermediaries, either verbally or in writing, after the agreement has been formed, are not binding, unless confirmed by us to the other party in writing.

ARTICLE 5. DETAILS AND INFORMATION

5.1 We will only be obliged to (continue to) execute the instruction if the other party has provided us with all details and information as requested, in the form and manner desired by us. Additional costs arising due to the other party failing to produce the requested details and information, or failing to do so in time or properly, will be at the expense of the other party.

5.2 The other party is obliged to immediately inform us of any facts and circumstances that may be important in connection with the execution of the instruction.

5.3 The other party guarantees the correctness, completeness and reliability of the details and information made available by or on behalf of him to us.

ARTICLE 6. EXECUTION OF THE INSTRUCTION

6.1 We stipulate the manner in which and by whom the instruction is executed, yet we will take due notice of the wishes expressed by the client in that respect.

6.2 We will carry out the work carefully and to the best of our ability; however, we are unable to guarantee that any intended result will be achieved.

6.3 Terms within which the work must have been completed will only be deemed final deadlines subject to a written agreement to that end.

6.4 Unless execution is permanently impossible, the client will not be entitled to dissolve the agreement on account of exceeding the term, unless we too fail to execute the agreement, whether in whole or in part, within a reasonable term given to us in writing, after the agreed delivery date has lapsed.

ARTICLE 7. PRICES

7.1 The prices given by us are net prices, exclusive of turnover tax and government and/or third-party charges applicable to the sale and/or delivery and/or execution of the agreement and are based on delivery ex our premises, unless otherwise agreed in writing.

7.2 The prices stated by us are expressed in euros or in another currency as agreed by us; any exchange differences are at the risk of the other party, unless otherwise agreed in writing.

7.3 The prices stated by us are based on prices and specifications current at the time the agreement is concluded and upon execution of the agreement under normal conditions.

7.4 We reserve the right to charge the other party a proportionate price increase if, after conclusion of the agreement, one or more price-determining factors and/or statutory levies, including labour costs, premiums, materials and exchange rate fluctuations, are increased.

7.5 The provisions of article 7.4 also apply if the changes in the price-determining factors referred to are the result of circumstances that could have been foreseen upon conclusion of the agreement.

7.6 In the event application of article 7.4 should lead to a price increase of 20% or more and the price increase is not imposed by law, the other party will have the right to dissolve the agreement by registered letter, within one week of us having announced the increase of the agreed price.

7.7 Delivery charges, service charges, dispatch costs etc are never included in our price, unless explicitly agreed otherwise in writing. The workshop rates are exclusive of cost of materials, parts and any third-party charges, unless otherwise agreed in writing.

7.8 Price increases arising from additions and/or changes to the agreement are at the expense of the other party.

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7.9 Costs arising as a result of the other party's failure to facilitate the execution of the agreement and/or in the event of circumstances that can be attributed to the other party as a result of which we have incurred costs, will be charged by us to the other party.

ARTICLE 8. DELIVERY

8.1 Delivery times are determined in mutual consultation; however, the delivery times and/or completion dates stated by us can never be deemed final deadlines, unless otherwise agreed in writing. In the event of late delivery and/or completion, we must be given written notice of default, stating a reasonable term to remedy the situation. A reasonable term is in any case the term deemed reasonable in the sector.

8.2 If we are not to blame for exceeding the delivery time, the other party will never be able to claim compensation or dissolution of the agreement.

8.3 The stated delivery times and/or completion dates are based on the working conditions applicable at the time the agreement was concluded and on timely delivery of the materials and/or parts ordered by us for the execution of the agreement.

8.4 The other party is obliged to take delivery of our shipment on the set delivery time, failing which all costs arising from that failure (including storage charges) and damage will be charged to the other party in accordance with our customary locally applicable rate.

8.5 Delivery will be ex our premises.

ARTICLE 9. RISK

9.1 The risk regarding the products and vehicles sold passes from us to the other party at the time of delivery. In the event of the sale of a vehicle, the other party is obliged to insure that vehicle from the moment of delivery.

9.2. Ownership of the products sold transfers from us to the other party after delivery, subject to the other party having paid the purchase price and everything else he owes us by virtue of the agreement.

9.3 During the period that ownership of a vehicle has not yet transferred to the other party in accordance with the provisions of paragraph 2 of this article, yet delivery has already taken place, the other party must keep the vehicle insured through comprehensive insurance and will not be permitted to dispose of, encumber, pledge, lease and/or lend the vehicle or otherwise make it available to third parties, or transfer it to third parties as security. During the aforesaid period, the other party will indemnify us against third-party claims to the vehicle.

ARTICLE 10. PAYMENT

10.1 Payment must be made at the time of delivery, unless otherwise agreed in writing.

10.2 Setoff against claims the other party alleges to have against us is not permitted.

10.3 In the event of failure to pay within the term referred to in article 10.1, we reserve the right to increase the amount payable by the other party with judicial and extrajudicial collection costs. The extrajudicial collection costs are hereby set at 15% of the amount owed, subject to a minimum of € 250.

10.4 Payments made by the other party will first be allocated in settlement of all accrued interest and costs and subsequently in settlement of claims ensuing from the agreement that have been outstanding longest, regardless of any instructions from the other party that settlement is in relation to another claim.

10.5 Any payment discounts agreed on in writing lapse if payment is not made within the payment term agreed on at a later date.

10.6 The other party is not entitled to refuse or suspend its payment obligation on the basis of alleged faults in the products or for any other reason.

10.7 In the event of winding-up, insolvency, bankruptcy or a moratorium on payments on the part of the other party, all claims against the other party will become immediately due and payable.

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10.8 We are at all times entitled to demand advance payment of the amount owed by the other party and/or demand that the other party will on demand fully cooperate in furnishing satisfactory security for fulfilment of all its obligations, including yet not limited to an irrevocable and unconditional bank guarantee by a recognised bank and/or issuing a pledge and/or deposit and/or joint and several notice of liability. Failure to produce this security entitles us to suspend the execution of the agreement or to dissolve it with immediate effect, without prejudice to our right to dissolve the agreement in accordance with the provisions of article 16.

ARTICLE 11. SUSPENSION AND RIGHT OF RETENTION

11.1 We are entitled to suspend our performance (which includes partial deliveries in the future) if the other party fails to fulfil one or more of its obligations or if we have received information regarding circumstances providing us with justified reasons to assume that the other party will not fulfil its obligations, except for deviating, mandatory legal provisions.

11.2 We can exercise the right of retention on all goods of the other party that are subject to the execution of the agreement and which are effectively held in our possession within the framework thereof if the other party, either partially or fully, fails to fulfil the obligations in relation to the execution of the agreement, or other agreements concluded with the other party and arising from business we have regularly conducted with the other party.

11.3 We are entitled to recover the costs incurred by us with regard to the care for goods that are effectively held in our possession from the other party.

ARTICLE 12. WARRANTY AND COMPLAINTS

12.1 Replaced parts and materials are only made available to the other party if this has been explicitly agreed in writing.

12.2 Warranties on new vehicles, parts and accessories are only given in accordance with the warranties as issued by the manufacturer, importer and other suppliers.

12.3 Warranties on used vehicles are only given if and insofar as explicitly stipulated in the agreement.

12.4 Used parts and accessories are not warranted.

12.5 Contrary to the above, the warranty for work performed by a third party within the framework of the execution of the agreement will be limited to the warranty which we are given by this third party.

12.6 Any claims under the warranty lapse:

- If we are not given the opportunity to repair the faults;
- If third parties have carried out work without our prior knowledge or approval;
- In the event of improper use of the vehicle, which includes:
 - use for purposes other than its intended purpose;
 - overloading;
 - use of wrong fuels and oils;
 - maintenance other than prescribed by us or the manufacturer of the vehicle;
 - incompetent control, use and/or maintenance.
- If modifications have been made to the vehicle by or on the instruction of the other party, unless all this has been effectuated in full compliance with a recommendation issued by us or after our written approval.

12.7 The warranty on work is limited to carrying out the original work again, at our expense. The travel and/or transport costs to be incurred by us in connection with work carried out under warranty are at the expense of the other party.

12.8 The work carried out under warranty on the basis of this article is re-warranted subject to the same terms and conditions.

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12.9 The following are excluded from the warranty:

- emergency repairs;
- faults in materials or parts prescribed or made available by the other party;
- faults that are the result of designs, drawings, constructions, work methods and advice given or made available by the other party;
- branch-specific or unavoidable deviations in the paintwork in terms of colour or quality.

12.10 Any complaints in respect of vehicles supplied by us (including quality and/or dimensions), work carried out and invoice amounts must be submitted to us in writing within 8 working days of receipt of the vehicle or the execution of the work, or within 8 days of receiving the invoice, giving a detailed description of the facts the complaint relates to.

12.11 Minor or branch-specific deviations and differences in terms of quality, quantity, dimensions or finish, as well as differences in the execution of the work, do not constitute a reason for complaints.

12.12 Complaints that relate to certain products or to certain work do not affect the other party's obligation with regard to other products or parts of the agreement. In the event we replace parts of a product or in the event we replace a product altogether, we will become the owners of the replaced (old) product.

12.13 Products subject to a complaint can be returned only subject to our written approval. Products that are tailor-made by us on the request of the other party cannot be returned, unless we approve of this in writing. We reserve the right to charge the return costs to the other party.

12.14 Complaints with regard to faults are not accepted if the products have been processed, or if these faults have not been reported within the aforesaid terms.

12.15 After a complaint has been submitted, we must be given the opportunity to inspect the products, with regard to which the other party will fully cooperate. Complaints with regard to products that cannot be inspected by us will not be accepted.

12.16 The other party cannot exercise any claims against us regarding complaints about faults in products, as long as the other party has not yet fulfilled any of its (directly opposing) obligations towards us.

ARTICLE 13. LOSS ASSESSMENT

13.1 If we, on the instruction of the other party, have conducted a loss assessment, the other party will be obliged to pay us all costs in connection with it, unless the other party instructs us to repair the relevant fault, or if the other party, following our assessment, decides to purchase a new vehicle from us.

ARTICLE 14. PART EXCHANGE SALE

14.1 If, in the event of the sale of a vehicle in part exchange of a used vehicle, the other party continues to use the part exchange vehicle while awaiting delivery, the other party is obliged to look after the vehicle with due care and diligence.

14.2 Ownership of the part exchange vehicle only transfers to us the moment that we take effective possession of this vehicle.

14.3 During the use referred to in paragraph 1 of this article, the risk of the vehicle rests with the other party and all costs will be at the expense of the other party, particularly those in connection with maintenance and possible damage, regardless of the cause thereof, or due to loss, including failure (or the inability) to hand in the valid and complete vehicle registration certificate and/or document and any other official documents.

14.4 If, in our opinion, the moment that we take effective possession of the vehicle, the part exchange vehicle is no longer in the same condition as it was at the time the agreement was concluded, we are entitled to refuse the part exchange and demand full payment of the agreed sale price of the vehicle or to revalue the vehicle and consider the value applicable at that time instead.

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14.5 If, in our opinion, the vehicle shows faults that could only be detected after having taken effective possession thereof, yet of which on the basis of objective criteria it is certain that those faults were already present at the time the agreement was concluded, the other party is obliged to compensate us the resulting damage. Damage is understood to include a reduction in the assessed value.

ARTICLE 15. RETENTION OF TITLE

15.1 All goods delivered and to be delivered remain the exclusive property of Clean Mat Trucks B.V., until all our current and future claims against the other party, which explicitly includes interest and judicial and extrajudicial costs, have been paid by the other party in full.

15.2 During the period that ownership of a vehicle has not yet transferred to the other party in accordance with the provisions of paragraph 1 of this article, yet delivery has taken place, the other party must keep the vehicle insured through comprehensive insurance and will not be permitted to dispose of, encumber, pledge, lease and/or lend the vehicle or otherwise make it available to third parties, or transfer it to third parties as security. During the aforesaid period, the other party will indemnify us against third-party claims to the vehicle.

15.3 During the period referred to in paragraph 2, the other party is obliged to return the products and/or vehicles sold on demand, in a proper condition. In the event that the other party fails to fulfil his payment obligations towards us or if there is good reason for us to believe that he will fail to fulfil his obligations, we are entitled to take possession of the products delivered by us under retention of title.

15.4 The other party is obliged to store the products delivered subject to retention of title with the necessary care and as the recognisable property of us.

ARTICLE 16. DISSOLUTION

16.1 If the other party fails to fulfil any payment or other obligation ensuing from any agreement concluded with us, or fails to do so properly or in time, as well as in the event of suspension of payment, an application for a moratorium, winding-up, a guardianship order or liquidation of the other party's business, we are entitled to dissolve the agreement, or a part thereof, without notice of default or judicial intervention.

16.2 Any mutual claims become immediately due and payable as a result of the dissolution. The other party is liable for damage or losses suffered by us, which includes interest and loss of profits.

16.3 If the provisions in paragraph 1 occur and the other party enjoys a gain he would not have enjoyed upon proper performance, we will be entitled to compensation of damage suffered by us to the extent of that gain.

16.4 Except insofar as these general terms and conditions provide for this, the other parties waive their right to partially or fully dissolve the agreement concluded with us or have this dissolved.

16.5 We reserve the right to unilaterally dissolve the agreement in the event of a dispute arising regarding the product that has been delivered.

ARTICLE 17. FORCE MAJEURE

17.1 In the event force majeure delays or prevents the execution of the agreement, we are entitled to dissolve the agreement, in writing, without this giving the other party any right to compensation.

17.2 Force majeure on our part includes any circumstance that arises beyond our control, preventing or delaying the normal execution of the agreement. Circumstances giving cause to such force majeure do in any case include:

- if the production or supply of a certain item is discontinued;
- if we have sold the other party a vehicle yet to be part exchanged and this vehicle, due to circumstances we cannot be blamed for, cannot be delivered to the other party;

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- loss, damage and/or delay during and due to transport, extreme sickness absence of staff, actions and measures by customs, including (temporary) closure of certain geographical areas, fire, theft and other serious disruptions in our operations or those of our supplier;
- If the manufacturer, importer or supplier makes modifications or (constructional) changes to a product, we reserve the right to supply the changed product, provided the changed product contains at least the same normal properties for use as the original product, as well as the special properties for use, if and insofar as agreed between us and the other party in writing.

ARTICLE 18. LIABILITY

18.1 Except in the event of intention, our liability is limited to our warranty obligations as described in article 13 and we cannot be held liable for whatever damage or loss, regardless of whether the claim is based on an agreement entered into with us, a wrongful act or otherwise.

18.2 In the event that we appear to be liable for any damage or loss, our liability is at all times limited to direct damage to objects or injury to persons and will never extend to any operational losses or other consequential damage, including loss of income.

18.3 Insofar as established judicially that our only liability is by virtue of this agreement or otherwise, our liability will furthermore be limited to the price at which the other party purchased the product, or the amount paid by the other party for the product, or at least be subject to the maximum current market value of the relevant vehicle.

18.4 In the event a final and conclusive decision by a court of law deems the provisions of article 18.3 unreasonably onerous, our liability will be limited to that damage, subject to the maximum amount we are insured against or would have been reasonably insured against, with a view to what is branch-specific. Claims by virtue of compensations based on the above must be reported to us within one month of discovery, at the risk of forfeiting all rights to compensation.

18.5 If the other party is a consumer, our liability is subject to the statutory provisions.

18.6 The other party is obliged to indemnify and reimburse us in respect of all third-party claims for compensation of damage, costs or interest, for which our liability towards the other party is excluded in these conditions.

18.7 We can never be held liable for damage caused by work with regard to products which do not form part of our normal activities and which are performed by us as a service, at the explicit request of the other party. This work is carried out at the risk and expense of the other party.

18.8 We will insure the risk or loss of goods of the other party held in our possession for the period that these goods are held by us. We are liable for goods handed over to us by the other party, regardless of the external cause it concerns and regardless of whether the damage or loss is caused during the period that these goods are held in our possession by virtue of an agreement, only insofar as the relevant insurer reimburses the relevant damage or loss. An external cause does not include the processing of the goods.

18.9 If this agreement relates to goods which we purchase or have purchased from third parties, our responsibility and/or liability will be limited to that for which that supplier is responsible and/or liable towards us. This provision applies only insofar as this application is more favourable for the other party than application of the aforesaid provisions.

18.10 We are not obliged to offer the other party replacement transport or arrange transport for that what needs transporting, nor is the other party entitled to compensation of the costs of replacement transport.

ARTICLE 19. INTELLECTUAL PROPERTY RIGHTS

19.1 All intellectual property and/or rights with regard to products of the mind developed or used by us as part of the execution of the instruction, including advice, methods of operation, model and other contracts, systems, system designs etc will be vested in us, insofar as not already vested in third parties.

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19.2 The client, whether or not in conjunction with or by engaging third parties, is not allowed to multiply, publish or exploit products of the mind or to record them on data carriers, unless we have granted our explicit prior approval.

ARTICLE 20. DEVIATING STIPULATIONS

20.1 In the event of a conflict between the provisions of the general conditions and the special provisions, the special provisions prevail.

ARTICLE 22. APPLICABLE LAW AND COMPETENT COURT

22.1 The provisions of the Vienna Sales Convention are excluded, as is any future international regulation in respect of the sale of movable property, the operation of which can be excluded by the parties.

22.2 All agreements that are partly or fully subject to these general terms and conditions are governed by Dutch law.

22.3 All disputes arising from or relating to the agreement are exclusively submitted to the court with jurisdiction in the district of our place of business, insofar as strict judicial conditions do not oppose this.

22.4 In the event of an (impending) dispute, we are entitled to have one or more experts carry out an expertise at the other party or have this carried out.