Schaften
Automotive

# General Terms and Conditions of Schaften Automotive – Sale

These general terms and conditions apply to Schaften Automotive Distribution B.V., TMH BodyBuilder B.V., Schaften Automotive BodyBuilder Vans B.V., and Schaften Automotive Parts B.V.

## Article 1: Definitions

The following capitalised terms have the following meanings:

1. **Additional Services**: all Services provided by Schaften Automotive after the moment of delivery per article 6 part 1 of these general terms and conditions.
2. **Client**: the relevant Schaften Automotive customer with whom Schaften Automotive concludes an agreement.
3. **EU**: the countries of the European Union, at the moment the relevant clause is applicable. 4. **Item**: the vehicle, machine, spare part or other object or material that is the subject of the agreement with the Client, including their ancillary objects such as keys and documentation. 5. **Services**: any services provided by Schaften Automotive, including Additional Services, work performed and services provided before the moment of delivery per article 6 part 1 of these general terms and conditions.
6. **Schaften Automotive**: the Schaften Automotive entity that has concluded an agreement with the Client, which can be TMH BodyBuilder B.V., Schaften Automotive Distribution B.V., Schaften Automotive BodyBuilder Vans B.V., or Schaften Automotive Parts B.V.

## Article 2: Scope

1. These general terms and conditions apply to and form an integral part of all offers made by Schaften Automotive and all agreements, whether consecutive or not, whether they are in writing or concluded orally, concluded or to be concluded with the Client, as well as the legal relationship ensuing therefrom, unless expressly agreed otherwise in writing. In case of inconsistency between the agreement and these general terms and conditions, the agreement prevails, unless expressly agreed otherwise in writing or unless otherwise indicated in these general terms and conditions.
2. Unless agreed otherwise in writing, or as indicated herein, no terms and conditions apply to the relationship between Schaften Automotive and the Client other than the present general terms and conditions of Schaften Automotive. The terms and conditions (by whatever name), which are used by the Client only apply if they are expressly accepted in writing by Schaften Automotive in the agreement. The Client waives any claims on the basis of its own terms and conditions.
3. If and when Schaften Automotive engages third parties or persons for the execution of the agreement, the terms and conditions applied by these third persons or parties which are accepted practice in the business sector concerned, or which are used by such person or party, can be invoked by Schaften Automotive vis-à-vis the Client. If any provision in such terms and conditions conflicts with a provision in these general terms and conditions, the provision of these general terms and conditions prevails; otherwise the provisions apply in addition to the provisions of these general terms and conditions.

**Article 3: Offers, prices, agreements**

1. Each of Schaften Automotive's offers, and offers of the Item's manufacturers, of whichever kind, is non-binding for Schaften Automotive unless explicitly indicated otherwise. This includes, without limitation, specifications, samples, images, demos etc. of Items, these are indicated as adequately as possible but are non-binding. Schaften Automotive is entitled, without being liable, to make changes to offers, including any technical specifications. Any order numbers or similar numbers included in any documentation are for internal reference only, the Client cannot derive any rights from this. Offers are valid for the relevant offer only and not for subsequent orders.

   Offers, lead times and Schaften Automotive's delivery obligations are always subject to availability, delivery by the Item's manufacturer, receipt of documents, permits, consents and the like that must be provided by the Client, any agreed advance payments and Schaften Automotive's ready for shipment notification.
2. Prices are in euros FCA Ringersstraat 11, Schiedam, the Netherlands (Incoterms® 2020), including export/customs documentation (referred to as "FCA Schiedam Incoterms 2020") and excluding taxes, such as VAT and Dutch vehicle taxes, other government imposed costs and costs for delivery, reporting, storage, transport, insurance, packaging, travel, assembly and the like, which costs are invoiced separately, unless explicitly agreed otherwise in the agreement. Price offers for a total price do not oblige Schaften Automotive to deliver it in parts, for the corresponding part of the price. If Schaften Automotive indicates other prices than FCA Schiedam Incoterms 2020, even if they are stated as an Incoterm price, such prices only refer to the prices for Additional Services (such as transport, insurance, export and import formalities) and do not affect the delivery moment per article 6 part 1. Deviation from FCA Schiedam Incoterms 2020 is only possible pursuant to article 6 part 1.
3. Schaften Automotive is entitled to increase the price of an offer if the costs for performing the agreement have increased with more than 5% before the start of its performance or if the manufacturer's price of an Item has increased before its delivery, pro rata such increase. Schaften Automotive is entitled at all times to increase the price pursuant to the relevant Dutch inflation index after prior notification, as well as between any two agreements.
4. Schaften Automotive is entitled to invoice extra Services or extra costs if (i) this is the result of the Client's request for a change to the agreement, (ii) circumstances outside Schaften Automotive's control lead to higher costs for performing the agreement, provided Schaften Automotive has informed the Client thereof.
5. The agreement is deemed to have been concluded if (i) Schaften Automotive confirms the Client's order in writing, (ii) the Client accepts (confirms) an offer issued by Schaften Automotive without deviating from it, (iii) Schaften Automotive has started the performance of the agreement, or (iv) Schaften Automotive confirms that it has initiated the agreement's performance.

6. Schaften Automotive reserves the right to cancel the agreement at its own discretion without cause and without liability until the moment the Item and/or Services has/have been delivered. 7. The Client is not entitled to cancel the agreement (i) unless this is explicitly agreed in writing in the agreement and (ii) always subject to the Client paying Schaften Automotive's costs, at a minimum of the advance payment which is then forfeited or 25% (twenty five percent) of the Item's price, or the offered price for the Services, whichever is higher, irrespective of the actual costs, which costs Schaften Automotive is entitled to recover from advance payments, without affecting Schaften Automotive's right to additional compensation. Agreements with respect to Items that are made or assembled on the Client's specification cannot be cancelled. 8. Absent a written agreement, the invoice is deemed to fully and correctly reflect the agreement's contents.

9. If the Client's acceptance of an offer deviates from the offer, regardless of the type of deviation, this is deemed to be a new offer and a rejection of Schaften Automotive's offer. In that case, the agreement is not concluded unless Schaften Automotive explicitly indicates otherwise in writing or if Schaften Automotive has started the performance of the agreement. Schaften Automotive's description of the agreement's performance prevails over the Client's description thereof, if any.

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**Article 4: Payment**

1. Unless agreed otherwise in writing, payment must be made in advance of delivery of the Item, and/or Services, such advance payment includes (without limitation) at least 25% (twenty five percent) of the total price or fees. No interest is payable for advance payments. For Items, the remainder of the price must be paid before their delivery and ultimately before shipment. Schaften Automotive is entitled to issue pro forma invoices and a final invoice after full payment.

2. If payment is not made in advance, payment must be made within thirty (30) days from the invoice date, or another term indicated on the invoice, pursuant to the payment instructions. However, if Schaften Automotive pays any external costs for the Client in advance, the Client is at Schaften Automotive's request obliged to immediately pay to Schaften Automotive the amount paid in advance by Schaften Automotive after the invoice for such costs.

3. The Client must pay the Dutch applicable VAT over the total price of the Items as well as over the Additional Services for such Items, if the Client cannot evidence within three months after delivery that the Item was delivered in or shipped to another country than the Netherlands.

4. Any complaints about invoices must be made within eight (8) days after the invoice date, in absence of which the invoice is deemed accepted.

5. Unless agreed otherwise, all fees and costs must be paid in euros. Any refunds or other amounts due to the Client are paid in euros, only paid to the Client's bank account that was used to make payments to Schaften Automotive, only to a bank in the country where the Client has its registered office and only after the Client has shown sufficient proof of being the bank account holder if so requested by Schaften Automotive. Any currency differences or risks as well as the payment costs are borne by the Client. If the Client pays in a different currency than the invoiced price, in case of decrease in the currency of the sales amount versus the currency in which it is paid, the Client is obliged to pay the difference in value. Payment by way of letter of credit or by other means than wire transfer, is only possible with Schaften Automotive's prior approval.

6. The Client is obliged to provide security upon Schaften Automotive's first request, in the form of a security deposit, bank guarantee, letter of credit or as the case may be a different form of security, for all amounts the Client owes or will owe to Schaften Automotive, such without affecting Schaften Automotive's retention rights. Schaften Automotive is entitled to retain and set off any security amounts paid for sold Items by subtracting this from the sales invoice.

7. Without affecting any of the other clauses herein, Schaften Automotive is entitled to not deliver or refuse shipment of any Item if the Client does not make the required (advance) payments or does not provide security as set out above.

8. No entitlement whatsoever to set-off or suspension accrues to the Client. 9. If the Client has not fulfilled its payment obligation, the Client is in payment default and all other claims vis-a-vis the Client become immediately payable. Schaften Automotive will be entitled to claim back the Item with immediate effect for each payment arrear and the Client will be obliged to provide full cooperation to the immediate return of the Item. Furthermore, Schaften Automotive is then entitled to charge interest of 1% (one percent) or the statutory commercial interest in conformity with the Dutch Civil Code, whichever is higher; the interest may be charged for a full month if payment is not made in that month. All judicial and extrajudicial recovery costs are at the expense of the Client, with a minimum of 15% (fifteen percent) of the recovery amount. The costs for legal proceedings before an arbitral court are also regarded as judicial and extrajudicial costs.

10. Schaften Automotive is entitled to have amounts paid by the Client first cover the costs for recovery, then the accrued statutory interest and finally the amounts payable. Schaften Automotive is entitled to refuse full payment of the amounts payable if the Client does not simultaneously pay the costs and the statutory rent.

11. If the Client does not fulfil its obligations, without affecting Schaften Automotive's other rights, Schaften Automotive is entitled to suspend its own obligations and entitled to refuse to deliver or ship any (new) Items and/or to request security for payment.

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**Article 5: Performance of the agreement (general)**

1. Unless explicitly agreed otherwise in writing, Schaften Automotive is not obliged to comply with any non-Dutch regulations in the performance of the agreement.
2. All indicated lead times and delivery dates are estimated and not fatal, unless the agreement explicitly states that the lead times and/or delivery dates are fatal.
3. The Client must ensure that it timely submits to Schaften Automotive all information which is requested by Schaften Automotive or which is reasonably required for a proper performance of the agreement, for example if Schaften Automotive makes or assembles an Item on the Client's specification. The Client warrants the information it provides to Schaften Automotive is correct, complete and up-to-date; Schaften Automotive is not obliged to verify this and is not liable if the Client is in breach of this warranty. The Client also warrants that all relevant access, facilities and cooperation are provided in a timely manner for Schaften Automotive to perform the agreement. The Client indemnifies and holds harmless Schaften Automotive for any costs and damages suffered as a result of the Client's breach of the foregoing warranties as well as in relation to any materials and the like instructed by the Client. All consequences of the Client's non-compliance with the foregoing, including breach of warranty, are borne by the Client and Schaften Automotive can suspend any of its obligations as a result thereof.
4. The risk of any errors in the transmission of any orders by the Client rests with the Client. Schaften Automotive reserves the right to invoice any costs and damages as a result of such errors.
5. The Client is obliged to submit to Schaften Automotive all relevant identification documents, such as documentation relating to its registered office, incorporation documents and chamber of commerce registrations, as well as identification documents of its affiliated natural persons, as well as any documentation that Schaften Automotive must include in its administration pursuant to applicable laws.
6. Schaften Automotive reserves the right to retain any object owned by the Client which is in Schaften Automotive's possession or control, until the Client has fulfilled its obligations ensuing from all agreements with Schaften Automotive.
7. Any item that is replaced by Schaften Automotive in the performance of the agreement, remains or becomes Schaften Automotive's property unless explicitly agreed otherwise in writing.

**Article 6: Sale of Items**

**Delivery**

1. The Item is delivered FCA Ringersstraat 11, Schiedam, the Netherlands (Incoterms® 2020), including export/customs documentation (referred to as "FCA Schiedam Incoterms 2020") at the moment the Item is notified ready for shipment to the Client irrespective whether Schaften Automotive arranges transportation, shipment, insurance or transport, customs clearance of the Item and/or provides any other (Additional) Services. The Client and Schaften Automotive can only deviate from FCA Schiedam Incoterms 2020 delivery in writing and only with explicit reference to this article stating the deviating Incoterm.
2. All Services provided by Schaften Automotive after the moment of FCA Schiedam Incoterms 2020 delivery, are provided as Additional Services. If in any communication another Incoterm is mentioned than FCA Schiedam Incoterms 2020, this use of the Incoterm terminology is only a description of the Additional Services, it does not change the delivery terms per article 6 part 1.
3. For Additional Services, Schaften Automotive will only act as service agent to handle transport, customs, insurance and/or any other Additional Service agreed between Schaften Automotive and Client. For Additional Services Schaften Automotive will act in the name and at the risk of the Client. The Client grants Schaften Automotive the power of attorney to take those actions and conclude those agreements on its behalf that are required to perform the Additional Services. This includes without

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agreement, adding the Client's name to the insurance policy, noting the Client's name on transportation and customs documents, stating Schaften Automotive as exporter. 4. Risk in the Item passes to the Client at the moment of delivery as indicated above in section 6 part 1, irrespective of (i) whether the Client has collected the Item, (ii) whether the Client has rescinded or cancelled the agreement and (iii) of whether Schaften Automotive performs Additional Services. The Client is responsible for insurance of the Items from the moment risk has passed to the Client.

5. The Client is obliged to collect the Item at the indicated delivery date and time, failing which the Client is in default (*'verzuim'*) and Schaften Automotive is, amongst others entitled to retain, without obligation to repay, any advance payments - including without limitation deposits and advance purchase amounts - made by the Client for the Item and to store the Item at the Client's cost at a location determined by Schaften Automotive as well as to rescind (*'ontbinden'*) the agreement. All costs related to the non-collection of the Item, such as insurance and storage costs, become immediately due and payable. Schaften Automotive is entitled to retain the Item until the Client has fulfilled all its payment obligations, including payment of the aforementioned costs. If Schaften Automotive terminates the agreement, it is entitled to sell the Item, without its other rights being affected.
6. Delivery of an order in parts is permitted unless agreed otherwise in the agreement. Schaften Automotive is entitled to oblige the transporter to whom the Item is delivery to sign a declaration of carriage. If Schaften Automotive agrees to deliver the Item at the Client's location, Schaften Automotive can invoice the extra costs and Schaften Automotive will deliver it at the Client's last known address.

**Import and export**

7. Without affecting Schaften Automotive's obligations under FCA delivery, the Client is responsible for obtaining the relevant permits and other permissions to export and import the Item to its country of destination.
8. Delivery within the EU: if the Item is intended for an EU-member state and picked up in the Netherlands by or on behalf of the Client, the EU-import certificate must be filled out (Item's arrival at the destination, destination, country, signature) and returned either physically or electronically to Schaften Automotive immediately after the Item's delivery at its destination.
9. Delivery to non-EU countries: if the Item is intended for a non-EU country (third country) and is picked up in the Netherlands by or on behalf of the Client, Schaften Automotive will hand over an Export Accompanying Document which must be submitted to customs at delivery from the EU. Upon the proper completion of the export procedure, Schaften Automotive will receive an export confirmation from customs.
10. The Client warrants that Items that are intended to be exported outside the Netherlands will actually be exported outside the Netherlands and the Client will, upon Schaften Automotive's request confirm this in writing. Upon Schaften Automotive's request the Client will submit copies of relevant permits, permissions, transportation documents, export declaration, confirmation of exit, evidence of the Item's arrival in the country of destination and other export and import documents with respect to the Item.
11. In relation to the sale and/or (re)distribution of any Item, Service or Additional Services supplied by Schaften Automotive as well as any software, technology, technical services or repair services related to the Item, the Client shall, and shall procure that its affiliates, agencies, shareholders, directors, employees, any entity or individual acting on behalf of or jointly with the Client, strictly comply with the export control and sanctions laws, in particular those of the European Union (the EU), Germany, The Netherlands, and the United States of America (the U.S.), altogether "Export Control and Sanction Laws".
12. The foregoing includes the obligation not to export, re-export, sell, re-sell, or otherwise transfer or re-transfer, directly or indirectly, any Item, Service or Additional Services supplied by Schaften

Automotive as well as any software, technology, technical services or repair services related to the Item, in whole, in part or in installed state, to a destination for an end-user or to a



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person subject to an EU or U.S. embargo, an embargo imposed by the Organisation for Security and Co-operation in Europe (OSCE), the United Nations (U.N.) or other EU or U.S. sanctions and export control laws, where that act would be a breach of the terms of that embargo, the respective sanction regulations, or export control laws. For the avoidance of doubt, such destinations include Iran, Democratic People's Republic of Korea, Syria, Russian Federation, Belarus, and any Russian-occupied region of Ukraine, which are subject to change from time to time upon receipt of notice from Schaften Automotive.

13. The Client shall undertake its best efforts to ensure that the purpose of parts 11 and 12 of this article is not frustrated by any third party down the commercial chain, including by possible resellers. To this end, the Client will set up appropriate monitoring measures.
14. Any violation of parts 11, 12 and 13 of this article shall constitute a material breach of the agreement. In that case Schaften Automotive reserves the right to take corresponding legal action and to refrain from any further business with the Client.
15. The Client may not use the Item for any purposes which are described as prohibited in export law legislation, including but not limited to use for military purposes or terrorism. If the Client wishes to use the Item for specific purposes for which an export license is required, if Schaften Automotive so agrees, an export license may be applied for.

**Ownership, retention of title**

16. Schaften Automotive retains title and interest in the Item until the Client has irreversibly and fully paid, pursuant to the agreement's payment terms, all amounts due for the delivered Item and for any of Schaften Automotive's related Services, as well as other amounts due by the Client as a result of its default under the agreement. Until that moment, the Client: (i) will ensure that it cares for the Item diligently, (ii) will separate the Item from other products and mark them as Schaften Automotive's property in so far as this is possible in the context of its regular business activities, (iii) will not remove any ownership notices from the Item, (iv) will fully insure the Item against damage, loss and theft and at Schaften Automotive's request submit the relevant insurance policy, (v) is only entitled to use or sell the Item in the context of its regular commercial activities, (vi) the Client is not entitled to give the Items in security in any way, encumber them, sell them, rent them, make them available to third parties or otherwise retract them from Schaften Automotive's property outside the Client's regular commercial activities as permitted above. This clause has property law effect.
17. These retention of title provisions do not expire due to the mere fact that Schaften Automotive at any time does not have a claim on the Client.
18. The Client must inform Schaften Automotive immediately upon a third party taking conservatory or enforcement measures, such as seizing, in relation to the Item. The Client must then inform the third party that Schaften Automotive owns the Item and must take those measures required to prevent or to lift the seizure of the Item.
19. Without affecting Schaften Automotive's statutory rights, Schaften Automotive is entitled to retrieve the Item in case: (i) of the Client's non-payment of an invoice, (ii) it is foreseeable that the Client will not be able to pay an invoice, e.g. due to impending bankruptcy, (iii) a third party seizes the Item or the Client's property or goods under its control. In that case, Schaften Automotive and/or persons so appointed by Schaften Automotive are entitled to enter any building, premise or site where the Item is located for these purposes and the Client is obliged to cooperate with Schaften Automotive and/or the relevant persons, in order to take possession of the Item and retrieve it. After retrieval of the Item, each order on the basis of which the Item was supplied is deemed rescinded; Schaften Automotive is then entitled to resell the Item. The costs of repossession of the Item (including without limitation transport costs and legal fees) will be charged to the Client, whether or not these costs are incurred by Schaften Automotive.
20. If and in so far as the retention of title is not valid, Schaften Automotive is hereby granted a right

of pledge on the Item, as well as on the insurance claims set out above and any claims the Client has on its customers if the Item is sold to such customers in the context of its regular business activities. The Client agrees to provide the cooperation and sign the documentation required to



further effectuate this right of pledge. The Client acknowledges that Schaften Automotive may itself give the Item in security.

21. When parts of the Item that are not spare parts are replaced due to repair thereof, Schaften Automotive retains or obtains the title in these parts and the Client is not entitled to a payment of the remaining value, such unless the Client has explicitly requested that the replaced parts are handed over.

**Sale of an item to Schaften Automotive (exchange)**

22. This article only applies to Items that are not spare parts. The Client and Schaften Automotive may agree that the Client (re)sells an item to Schaften Automotive, when purchasing a new Item. Schaften Automotive may then decrease the new Item's purchase price with the value of the (re)sold item per the date of its delivery at Schaften Automotive's location in the Netherlands and based on the information provided by the Client with regard to build date, mileage, history of damage and/or accidents and based on the assumption that the item is entirely free of damage and any third party rights. The risk in the Client's item passes to Schaften Automotive after Schaften Automotive has taken it in at Schaften Automotive's location in the Netherlands. If the foregoing information provided by the Client and/or assumption turns out to be incorrect, Schaften Automotive reserves the right to rescind (*"ontbinden"*) the relevant sales agreement and/or to decrease the price of the (re)sold item. Such rescission shall not affect the sales agreement for the new Item and the Client is then obliged to pay the full price of the new Item.

## Article 7: Inspections, complaints, defects

1. The Client must (i) inspect each Item immediately upon its delivery per article 6 part 1 or, if Schaften Automotive arranges for sea transport, upon its arrival at the agreed harbour, and (ii) inspect the Services immediately upon their delivery, in each case to verify whether they comply with the agreement. Inspections of Items must be made either physically or electronically e.g. via video phone. Minor and/or usual deviations in quality, amount, size, weight or finishing and deviations as a result of errors in any offers are not regarded as non-compliance, and neither are deviations as set out in article 8, part 3 (i) through (iii). Any ascertained non-compliance must be notified to Schaften Automotive in writing within eight (8) days after delivery per article 6 part 1 or, if Schaften Automotive arranges for sea transport, arrival at the agreed harbour, respectively within eight (8) days after delivery of the Services or, if the non-compliance cannot reasonably be ascertained, within eight (8) days after the Client could have reasonably ascertained the non-compliance, and ultimately within eighteen (18) days of the invoice date, in absence of which any claims expire. The notice must set out the non-compliance in detail and contain evidence of the non-compliance so that Schaften Automotive can adequately respond to it. The notice of non-compliance with regard to a certain Item and/or Service does not affect the obligations related to other Items and/or Services, including the Client's related payment obligations.
2. The Client shall provide the requested information, cooperation and access for Schaften Automotive to investigate the suspected non-compliance. Items may only be returned to Schaften Automotive after its prior written consent. Any return shipments must be sent DDP as per the then current Incoterms to Schaften Automotive's location in the Netherlands and, if applicable in the original packaging.
3. If Schaften Automotive, at its discretion, determines the Item and/or Services are not in compliance with the agreement, it may choose to either replace or repair the Item, respectively rectify the

Services, unless replacement or repair, respectively rectification is no longer a realistic option for the Client, which is to be evidenced by the Client, or to credit it or the non-conforming part. Schaften Automotive's liability in relation to a non-compliance is limited at all times to the warranty and liability provisions in these general terms and conditions.



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4. Repair or replacement, respectively rectification of Services will be carried out at the original delivery location. If it must be carried out at a different location, Schaften Automotive reserves the right to invoice the related additional costs.
5. Schaften Automotive will only pay the Client's costs for having Items repaired and/or Services rectified, either by itself or a third party, if the Client has obtained Schaften Automotive's prior written consent for this.
6. Schaften Automotive reserves the right to invoice the costs made in relation to the inspection of the non-compliance if the notification was not justified.

**Article 8: Warranties**

1. Schaften Automotive can only be bound to a warranty if this is explicitly given by Schaften Automotive in writing.
2. Any warranty given by a manufacturer or other third party is always subject to the manufacturer's or relevant third party's warranty conditions, which prevail over conflicting provisions in this article.
3. Excluded from warranties in any event are: (i) damage and/or defects as a result of improper, careless and/or non-expert use of the Item, including without limitation overloading, use of wrong fuels, not following the instructions and non-expert use or installation of the Item, (ii) defects and/or damage as a result of repair or amendment of the Item by or on instruction of the Client, (iii) defects and/or damage as a result of normal wear and tear, accidents and/or external factors such as fire or heavy weather, (iv) deliveries of Items to outside the EU.
4. Warranty claims are only valid if they are notified in writing within the warranty term and in compliance with the notification obligations indicated in article 7. Article 7 also applies to warranty claims. If no specific warranty term is given, the warranty term is six months. After the relevant warranty term has ended, all claims with respect to non-conformance expire.
5. Schaften Automotive will not claim an exclusion of a valid warranty claim if it is absolutely necessary for the Client to repair the Item and the Client cannot reasonably be expected to await Schaften Automotive's response to the warranty claim. However, in that case the warranty claim is limited to the costs for repair at Schaften Automotive's location.

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**Article 9: Liability and indemnity**

1. Schaften Automotive will not be in any manner whatsoever liable for direct or indirect or any other type of damage on the part of the Client or third parties, suffered and arisen due to the use of the Item or otherwise in relation to the agreement. Schaften Automotive can therefore, amongst others, not be held liable for damage resulting from work and/or the failure by any third party to deliver (in a timely manner) goods or services, damage to an Item after risk therein has passed to the Client, for any loss of income, loss of profits, damage to property, fines, government penalties, reputational damage or immaterial damage.
2. In any event, Schaften Automotive limits its liability to the fullest extent permitted by law. If, notwithstanding the above, Schaften Automotive can be held liable, Schaften Automotive's liability is limited at all times to the reasonable and evidenced costs for limiting, preventing and/or ascertaining the damage as well as to the amounts paid out by its insurance company or, if the insurance company does not pay out, Schaften Automotive's total aggregate liability is limited at all times: (i) for sale of Items, to 5% (five percent) of the price, excluding VAT, paid by the Client for the Item that caused the (first) damage and (ii) for Services, to 5% (five percent) of the amount, excluding VAT, paid by the Client for such Services and in the case of ongoing Services, of the amount paid during the two month period prior to the event that caused the (first) damage.
3. The foregoing limitations do not apply in the event of the intent or gross negligence on the part of Schaften Automotive's management. The entities or persons in Schaften Automotive's management cannot themselves be held liable for such damage.
4. In all cases where performance of the agreement is still possible, including where Schaften Automotive has given a warranty (if any), Schaften Automotive can only be held liable after it has been served a notice of default, setting out the claimed default in sufficient detail for Schaften Automotive to remedy it.
5. Without affecting the Client's notification obligations with respect to non-conformance per article 7 part 1, as soon as possible but ultimately within one (1) month after becoming aware of the cause of a claim, the Client has to notify Schaften Automotive thereof, in absence of which the claim expires. Without affecting article 8 part 4, any claims against Schaften Automotive have to

be initiated in legal proceedings against Schaften Automotive within four (4) months after the Client became aware, or should have reasonably become aware of the cause of the claim, in absence of which the claim expires.

6. Third parties hired by Schaften Automotive in relation to the performance of the agreement are entitled to invoke the liability limitation in this article against the Client. Schaften Automotive is entitled to invoke the liability limitation of this article against third parties involved in relation to the performance of the agreement.
7. The foregoing limitations also apply to any of the Client's claims for repayment of any paid amounts.
8. If Schaften Automotive receives a third party claim in relation to the agreement that is not caused by Schaften Automotive, the Client will keep Schaften Automotive, its employees, officers and agents indemnified and hold them harmless from all costs, claims, fines, settlement amounts and/or causes of action in relation to such claims.





**Article 10: Suspension, end of the agreement**

1. Schaften Automotive can suspend its obligations and the agreement can be terminated by Schaften Automotive (for cause) (*'opgezegd'*) or rescinded (*'ontbonden'*) at Schaften Automotive's option, at any time without notice of default and with immediate effect, without the requirement of any judicial intervention or judicial termination or obligation to pay damages on the part of Schaften Automotive, if one of the following events occur: (i) as soon as the Client is the subject of a petition for moratorium or suspension of payment, bankruptcy, a composition with creditors, an insolvency application, or application for moratorium, or any similar legal concept in accordance with the law; (ii) as soon as any Item that is still owned by Schaften Automotive, and/or the assets of the Client is/are seized or are otherwise the subject of any enforceable or precautionary measures whatsoever by a third party, including any government agency or authority; (iii) as soon as the Client loses control over its assets for whatever reason; (iv) if the Client does not fulfil its obligations (*'komt tekort'*) under the agreement or if Schaften Automotive has good grounds to believe the Client may not be able to fulfil its obligations (for the avoidance of doubt, such obligations, whenever used in the terms and conditions, include the obligations set out in these general terms and conditions); (v) if the control in the Client is taken over by a third party; (vi) if the Client's management board changes substantially; (vii) if the Client discontinues its business activities; (viii) in case of cancellation by the insurer of the insurance with regard to the Item that is still owned by Schaften Automotive, if this can be attributed to the Client and no other respectable insurer wants to insure the Item; (ix) in case Schaften Automotive finds that the Client has made untruthful statements; (x) in case the Client, the Client's managing officers, management board, employees and/or hired contractors have committed an offense which influences or may influence the performance of the agreement (e.g. have committed fraud with regard to the Item's registration documentation); (xi) in case Schaften Automotive finds that there are circumstances in the country where the Item, if still owned by Schaften Automotive, is used or located that may potentially lead to the Item being damaged, stolen, confiscated or otherwise harmed.
2. If Schaften Automotive suffers force majeure for a consecutive period of more than three months

then each of the Client and Schaften Automotive are entitled to terminate (*'opzeggen'*) the agreement.

3. After the end of the agreement all claims of Schaften Automotive against the Client and all of the Client's payment obligations will become immediately due and payable.
4. The termination rights set out in these general terms and conditions do not affect either party's rights to terminate the agreement as provided for by the law applicable to these general terms and conditions, except that part 2 of this article 10 excludes the Client's right to rescind (*'ontbinden'*) the agreement.
5. The Client's statutory right to rescind the agreement due to Schaften Automotive's default under the agreement is subject to the Client's notice of default as set out in article 9 part 4.





**Article 11: Force majeure**

1. Schaften Automotive is not obliged to comply with its obligations if it cannot do so as a result of circumstances that are not due to Schaften Automotive's intent or gross negligence or in case of force majeure.
2. Force majeure is taken to mean that which the law, case law and/or these terms and conditions includes as to that, each circumstance beyond the control of Schaften Automotive, as a result of which fulfilment of its obligations cannot reasonably be requested of it, regardless of whether this circumstance was foreseeable at the time of concluding the agreement.
3. The following are in any case deemed such circumstances: strike actions and exclusions, embargo, acts of God, weather circumstances, riot/disturbances, war, terrorism, crime, theft, accidents, fire, excessive sickness absence, business interruption, weather conditions, epidemics, pandemics, infrastructural problems, errors or non-availability of communication facilities including the Internet, electricity failures or shortages, failure of websites, or other technical breakdowns on the part of Schaften Automotive, its suppliers and/or its own transport, or the transport arranged by third parties, force majeure or defaults of third parties, whether or not hired by Schaften Automotive, delayed delivery of ordered vehicles, materials or parts including Items, import- and/or export restrictions, measures imposed by government agencies or authorities and the withdrawal of one or more permits or other type of authorisation that must be acquired from or granted by authorities.
4. In addition to its termination rights per article 10, Schaften Automotive is also entitled to suspend its obligations under the agreement for the duration of the period of force majeure, without being liable.
5. If Schaften Automotive has, in case of force majeure, fulfilled part of its obligations, the Client is obliged to pay the corresponding amounts.

**Article 12: General provisions**

1. The Client agrees to keep confidential Schaften Automotive's information which is marked as confidential or which is of such nature that the Client can reasonable understand it must be kept confidential. Such information includes without limitation drawings, tools, software, patterns, devices, models, templates, designs and other similar materials provided to the Client. The (intellectual) property rights in relation to such materials remain Schaften Automotive's unless explicitly agreed otherwise with the Client in writing.
2. If any of the provisions of these general terms and conditions, or as the case may be the agreement, is null and void, voidable or otherwise invalid or unenforceable they will be deemed to be replaced by a clause that approaches the effect of the relevant provision as closely as possible. The remaining provisions will remain unimpaired.
3. These general terms and conditions may be changed by Schaften Automotive. The notified new terms and conditions apply to any new agreements concluded between the parties. With regard to any ongoing agreements the following applies: Schaften Automotive will notify the Client of the new terms and conditions, allowing the Client to object to the new terms and conditions within a reasonable term of at least two weeks before the effective date of the new terms and conditions. If the Client objects to the new terms and conditions, Schaften Automotive may decide to allow the Client to terminate the agreement or to continue the agreement under the old terms and conditions or agree to another solution with the Client. If the Client does not object to the new terms and conditions within the set term, the new terms and conditions apply to the agreement as per their effective date.
4. Unless indicated otherwise in the agreement or herein, changes to the agreement can only be made with written consent of both parties.
5. The Client is not entitled to transfer or assign any of its rights and/or obligations pursuant to the agreement including any warranty to any third party without Schaften Automotive's prior written consent; this prohibition has property law effect. The Client hereby agrees that Schaften





Automotive may transfer or assign its rights and/or obligations to a third party that takes over its business or part of its business and that it may also transfer or assign the rights to the amount payable by the Client to a third party, e.g. for securitisation purposes.

6. If a party does not invoke a provision of the agreement or these general terms and conditions, this does not constitute a waiver of such provision.
7. Schaften Automotive may process personal data of contact persons or other persons at the Client, which it does so under its own responsibility, as a controller, as referred to in the General Data Protection Regulation EU/2016/679 (GDPR).
8. Schaften Automotive reserves the right to cancel any agreement that has been concluded by unauthorised Schaften Automotive staff. The Client warrants that the person who concludes and/or executes an agreement on its behalf is authorised to do so. The Client waives any rights it may have in relation to unauthorised representation and agrees to pay Schaften Automotive's costs and damages it suffers as a result thereof.
9. The parties agree that if the Client is established outside the Netherlands, articles 6:232 and 6:234 (jo. 6:230c), 6:235 (1) and (3) of the Dutch Civil Code apply. The parties also agree that article 6:227b sub 1 and article 6:227c Dutch Civil Code do not apply. The Client waives it right to rescission (*'ontbinding'*), or annulment (*'vernietiging'*) on the basis of article 6:227b sub 4 and/or sub 5 Dutch Civil Code as well as 6:227c sub 2 and sub 5 Dutch Civil Code. The parties also agree that articles and 7:15, 7:16, 7:20, 7:27, 7:36, 7:41, 7:42, 7:43 and 7:44 Dutch Civil Code do not apply, such without affecting deviations herein from section 7.1.7 Dutch Civil Code.

**Article 13: Compliance**

1. The Client represents, warrants and covenants that:
   a) The Client and its Affiliated Persons are solely responsible for complying with all laws

applicable to them, in particular the applicable criminal, money laundering, and export control laws.

b) Neither it nor any of its Affiliated Persons has, to its or their best knowledge in connection with transactions based on these general terms and conditions offered, paid, given or loaned or promised to pay, give or loan, or will offer, pay, give or loan or promise to pay, give or loan, directly or indirectly, money or any other thing of value to or for the benefit of any Government Official, employee or representative of a business for the purposes of corruptly

(i) influencing any act or decision of such person in exercising its function, (ii) inducing such person to do or omit to do any act in violation of its lawful duty, (iii) securing any improper advantage or

(iv) inducing such person to use its influence with a Government Entity, employee or representative of a business engagement to affect or influence any act or decision of that Government Entity or business,

in each instance to direct business to itself, its Affiliated Persons or Schaften Automotive.

c) In case the Client or any of its Affiliated Persons are or will become a Government Entity or a Government Official whose official duties include decisions to direct business to the Client, its Affiliated Persons or Schaften Automotive or to supervise, or otherwise control or direct the actions of Government Officials who are in a position to direct business to the Client or Schaften Automotive, the Client or the respective Affiliated Persons must ensure that conflicts of interest are excluded and must inform Schaften Automotive without undue delay about the measures taken.

2. The Client shall assist and cooperate fully with the efforts of Schaften Automotive to comply with laws.
3. The Client is obliged to report to Schaften Automotive on compliance with laws in transactions related to these general terms and conditions, including those with third parties. It shall produce





documentation in accordance with the practices of proper commercial management and proper commercial accounting.

4. The Client shall permit Schaften Automotive and its representatives during normal office hours to examine and make copies of the Client's books and records relating to transactions in connection with these general terms and conditions, to verify compliance by the Client with the representations, warranties and covenants of this article. If duplicating facilities are not available on the Client's premises, Schaften Automotive or its representatives may remove the books and records from the premises for purposes of making copies.
5. The Client shall assist Schaften Automotive and its representatives in every way to carry out their tasks, in particular by promptly providing all information and materials and by permitting unhindered access and inspection of the books and records.
6. In so far as required for the protection of the Client's business secrets, it can demand that the examination is performed by a certified accountant appointed by Schaften Automotive that is bound by a confidentiality agreement.
7. If the Client or any of its Affiliated Persons breaches the above representations, warranties or covenants, then, in addition to any other rights Schaften Automotive may have under these general terms and conditions, Schaften Automotive may claim from the Client release from liability and indemnification from any and all justified claims of any third party.
8. Definitions

For purposes of this article, the following terms have the meanings set forth below: (a) "Government Official" means any officeholder, employee or other official (including any immediate family member thereof) of a Government Entity, any person acting in an official capacity for a Government Entity or any candidate for political office;

(b) "Government Entity" means a government or any department, agency or instrumentality thereof (including any company or other entity controlled by a government), a political party or a public international organization;

(c) "Affiliated Persons" means the Client's officers, directors, employees, or agents, or any of its stockholders, principals or owners acting on its behalf or in its interests.

9. The Client hereby agrees that it will pass to its business partners, who distribute the vehicles purchased under these general terms and conditions from Schaften Automotive, the obligation to comply with the representations and warranties set out under part 1 of this article and to monitor compliance of the said business partners with such representations and warranties.

**Article 14: Applicable law and arbitration**

1. The legal relationship, including without limitation the agreement and these general terms and conditions, between Schaften Automotive and the Client is exclusively governed by the laws of the Netherlands. The United Nations Convention on Contracts for the International Sale of Goods does not apply.
2. All disputes between the parties in relation to the legal relationship between the parties, shall be settled in accordance with the Arbitration Regulations of the Netherlands Arbitration Institute. The arbitration tribunal will consist of three arbitrators and will be appointed in accordance with the list procedure. The location of the arbitration will be Rotterdam (the Netherlands). The proceedings will be conducted in the English language, unless the Client is established in the Netherlands, in which case the proceedings will be conducted in Dutch. The arbitration tribunal will decide with due care and in accordance with fairness. Consolidation of the arbitration proceedings with other arbitration proceedings, as provided for in Section 1046 of the Code of Civil Procedure and Section 39 of the Arbitration Rules of the Netherlands Arbitration Institute, is excluded.