

# DAIMLER TRUCK

## Supplementary Terms and Conditions of Procurement of Daimler Truck AG for Fittings, Superstructures, Installations and Conversions of basic truck vehicles

Version 12/2022

### I. Object of Agreement

1. The present supplementary terms and conditions apply to the procurement of fittings, superstructures, installations and conversions (hereinafter "Bodies") by Daimler Truck AG or one of its affiliates (Sec.15 AktG) (hereinafter "DTAG") from the Bodybuilder.
2. DTAG's current "General Purchase Conditions Production Material and Spare Parts for Motor Vehicles" and Sections DTST 29 (Shipment of Goods) and DTST 36 (Social Responsibility, Environmental Protection and Product Compliance) of DTAG's current "Daimler Truck Special Terms" shall in any case apply in addition. In case of conflicts, the present supplementary terms and conditions shall take precedence over the General Purchase Conditions Production Material and Spare Parts for Motor Vehicles and the Daimler Truck Special Terms in all cases.

### II. Delivery, Ownership, Storage, Insurance

1. The Bodybuilder shall undertake to inspect the vehicles thoroughly for damage, defects and missing parts when they are delivered. Any damage and defects must be recorded and promptly reported to DTAG in writing. If DTAG does not receive written notification of defects within five calendar days of delivery, the vehicles shall be deemed to be as required, unless the defects could not have been identified in the course of the required inspection. DTAG must be informed in writing of any such defects as soon as they are discovered. The Bodybuilder must also take the measures required to protect DTAG's rights, in particular by arranging an inspection, especially with respect to the freight forwarder, the carrier or the insurance company.
2. The base vehicles shall remain the property of DTAG. The Bodies fitted by the Bodybuilder will become the property of DTAG once they are completed; co-ownership rights shall be assigned to DTAG. The Bodybuilder shall inform DTAG promptly in writing and in detail of any matters that could affect the ownership of the vehicle. This includes, in particular, enforcement measures and any imminent application for insolvency proceedings. The Bodybuilder shall undertake to carry out all of the necessary steps to secure DTAG's rights. A lien in favor of the Bodybuilder based on the loaned vehicles shall be excluded.
3. The Bodybuilder shall undertake to keep the vehicles safe within its enclosed business premises and to treat them with care. It shall not move the vehicles to another location without the prior written consent of DTAG. DTAG is entitled to have the vehicles inspected by its agents during the Bodybuilder's usual working hours. The Bodybuilder shall be required to designate the vehicles as the property of DTAG. It shall inform DTAG in writing, without undue delay, of any occurrences that could affect the ownership of the vehicles.
4. The Bodybuilder must notify DTAG immediately of any seizure or attachment of the Vehicles and provide the documentation necessary to secure their release. Bodybuilder shall bear all costs required to suspend such seizure or attachment and to secure the return of the vehicles, unless these costs were caused by DTAG or paid by a third party. Where there are exigent circumstances, the Bodybuilder must immediately and of its own accord take all measures necessary to secure DTAG's ownership rights.
5. The vehicles may not be used for demonstration purposes, other journeys, or other purposes that are not related to mounting Bodies onto the vehicles.
6. Throughout the period when the vehicles are in the Bodybuilder's possession, the Bodybuilder shall insure the vehicles adequately in its own name and on its own account, in favor of DTAG, against fire, theft, third-party damage and other damage, and shall instruct the insurer to pay out any claims for damage directly to DTAG. The Bodybuilder shall provide proof to DTAG on request that it has taken out insurance.

### III. Delivery Times, Contractual Penalties, Payment

1. The Bodybuilder shall be responsible for ensuring that the Bodies are completed on time and mounted on the base vehicles and chassis, and that delivery of the complete vehicles can be carried out in accordance with the delivery schedule agreed with the end customer.
2. In the event of force majeure at DTAG, which prevents DTAG, through no fault of its own, from handing over the base vehicles to the Bodybuilder so that it can provide the services owed, the deadlines and timescales stated in the individual agreement resp. in the Bodybuilder Portal shall be changed by the duration of the disruptions to delivery caused by these circumstances. The same shall apply mutatis mutandis if the Bodybuilder is unable to meet its delivery deadlines due to force majeure. Force majeure shall be said to occur when delivery is stopped by an event that could not be foreseen or prevented even when care of the highest possible standard is exercised.
3. If the Bodybuilder is at fault in failing to meet the deadline for executing an order, DTAG shall reserve the right to claim from the Bodybuilder a contractual penalty to the amount of 0.5 % of the net value of the order for each week or part thereof by which the deadline is exceeded. The contractual penalty shall be limited to a maximum of 5 % of the net total of the order. DTAG may claim contractual penalties even if it has not reserved the right to do so before the vehicles are accepted. It must reserve the right to do so at the latest when final payment is made.
4. The assertion of further claims for damages by DTAG if the period of performance is exceeded shall remain unaffected. The contractual penalty pursuant to Section III.3 shall, however, be calculated on the basis of such compensation claims.
5. Approval for the delivery of the vehicles with regard to the quality of the Bodybuilder's workmanship shall be made in writing by DTAG (quality management). Section IV contains details in this regard.
6. Once the Bodybuilder has provided its services in accordance with the agreement and DTAG has given its approval, the Bodybuilder shall receive the payment agreed for its services in the individual agreement. The Bodybuilder shall not be entitled to any further claims for payment. The agreed payment is a fixed price. If there are changes in costs that were not foreseeable at the time the agreement was concluded, either of the Parties may request that a price adjustment be negotiated with regard to the changes in costs.

### IV. Technical Compliance, Quality Assurance, Quality Management, Documentation, Acceptance

1. The Bodybuilder shall ensure within its area of responsibility and with regard to the subject of the agreement that it observes and complies with applicable laws, guidelines, standards or other applicable specifications (e.g. ISO standards, technical instructions) in particular in regard to applicable technical requirements. The Bodybuilder shall also ensure that its scope of supply and services is provided in accordance with the applicable order as well as the state of art of science and technology in the quality required by DTAG.
2. The Bodybuilder shall check and document compliance with these requirements prior to delivery of the vehicles and shall secure compliance using its quality processes.
3. The Bodybuilder shall implement and maintain a quality management system, which is oriented to the requirements of DIN EN ISO 9001. Compliance with the QM minimum requirements presented in the Bodybuilder Portal under company profile is guaranteed. DTAG reserves the right to repeatedly review the QM system of the Bodybuilder on site in an audit that is free-of-charge for the Bodybuilder.
4. The Bodybuilder shall ensure that the requirements set out in Sections IV.1, IV.2 and IV.3 are also guaranteed when third-party services are purchased. If complete bodies, important components or modifications to the Daimler Truck base vehicle are contracted out to subcontractors, DTAG shall be notified in writing at the time

that bids are being made or as soon as a decision has been made regarding the subcontractor. Through its supplier assessment process, the Bodybuilder shall ensure that each subcontractor is able to achieve the quality required by DTAG and that it secures this through its own quality processes. Ideally, the subcontractor is already listed in the Bodybuilder Portal and has at least a Qualified Partner status. DTAG is entitled to reject the award of an order to the designated subcontractor. In this case, the Parties will reach amicable agreement on another subcontractor. In the event that the Parties fail to agree, DTAG will use reasonable discretion to appoint a subcontractor.

5. DTAG's quality management staff shall be entitled to inspect the whole vehicles (base vehicles and Bodies) at the Bodybuilder's premises to ensure compliance with the requirements listed in Section IV.1. Vehicle inspections shall be carried out in a dry, heated and lighted room, possibly incorporating a mounting pit or lifting platform.
6. If a quality assurance inspection for a government order is carried out at the Bodybuilder's premises, the Bodybuilder shall provide the required infrastructure, as well as any personnel and equipment that may be required for testing, and will grant the quality assurance inspector access to all documents that confirm the product's conformity with contractual requirements.
7. The Bodybuilder shall register the vehicle(s) for inspection via the Bodybuilder Portal. The Bodybuilder shall propose a vehicle inspection date in the Bodybuilder Portal and shall confirm the complete performance of the contractually owed work by means of the deposited self-confirmation. DTAG shall either confirm the inspection date or suggest an alternative date. Furthermore, DTAG reserves the right not to inspect the vehicle(s).
8. The technical confirmation for the vehicle delivery is carried out by the responsible DTAG Quality Management on the basis of the self-confirmation in the Bodybuilder's Portal and/or any vehicle inspection. Confirmation shall be given within three working days, but at the earliest on the date of completion. Confirmations at a later date must be agreed by mutual consent. If the confirmation is culpably delayed by DTAG after the Bodybuilder has rendered its services appropriately and completely, this shall not justify any delay in payment of the remuneration pursuant to Section III.6 Sentence 1. The commercial release for the transfer to the Wörth plant shall take place by the responsible DTAG department. The confirmation for handover to the end customer is issued by the branch office or the Daimler Truck representative.
9. The cost of the vehicle inspection shall be borne by DTAG.
10. If defects are identified, the Bodybuilder must remedy them before the deadline set by DTAG Quality Management. Vehicle approval shall only take place once the defects have been remedied. The need for a follow-up inspection shall be determined by the results of the DTAG Quality Management inspection. In the event of a subsequent required inspection, DTAG reserves the right to bill the Bodybuilder for the arising costs (in particular personnel and travel costs) up to a maximum of EUR 1,000 per inspection. In the event of not only insignificantly defective performance, DTAG reserves the right to withdraw from the respective individual agreement. The defects must have been notified to the Bodybuilder in advance with a request for an opinion (warning).
11. The Bodybuilder must document any work carried out and modifications made to the chassis as well as mounted bodies and attachments in the maintenance booklet of the vehicle and in the Bodybuilder Portal.
12. DTAG reserves the right to demand additional measures from the Bodybuilder in order to ensure delivery quality. The measures are defined in agreement with the Bodybuilder within the scope of the clarification of the order. In addition, the Bodybuilder shall use additional preventive quality management methods (e.g. risk analyses, process audits, etc.) where appropriate.
13. The Bodybuilder shall record the Bodies and their chassis numbers together and shall provide the documentation for inspection by DTAG. The Bodybuilder's responsibility for its scope of supply shall remain unaffected by the documentation mentioned above. The same shall particularly apply in this context to the provisions in Sections IV.9, IV.10 and IV.11. The documentation (parts list/BOM, drawings, etc.) must be sent to DTAG free of charge whenever DTAG requests it in writing. The order-related documentation must be

archived for at least 15 years. In variance with this, special rules may be agreed for orders for government and military vehicles. Any related technical changes must be documented.

14. The Bodybuilder shall undertake to set up a complaints management system for its scope of supply with easily comprehensible documentation, and to carry out complaints processing. The Bodybuilder shall allow DTAG to inspect its documentation upon request. DTAG must be informed in writing by the factory's customer service team about any claims relating to safety, increases in claims and measures planned to prevent claims (e.g. product recall) as well as about any consequential claims against the base vehicle, without undue delay.
15. If the Bodybuilder is not yet able to use the IMDS (International Material Data System) in order to provide information regarding materials, it shall send a certificate of conformity concerning the materials used, for each delivery scope at the time it submits its bid, however, at the latest with the documentation of the bodybuilding data in the Bodybuilder Portal.

## V. Performance of the Services

1. The Bodybuilder shall undertake to comply with DTAG's current body and equipment mounting directives (hereinafter "the Body and Equipment Mounting Directive") for all Bodies, including the recommendations contained in them, as well as the relevant statutory provisions and technical standards. The Bodybuilder must also comply with standards and laws that are applicable in each country, in particular current accident prevention regulations and safety regulations, and must observe current EU machinery directives and standards. The Bodybuilder shall comply, as far as applicable, with the approach to the European End-of-Life Vehicles Directive described in the Body and Equipment Mounting Directive. Current statutory prohibitions on materials must be complied with. If DTAG intends to supply vehicles equipped with Bodies supplied by the Bodybuilder to countries other than the Federal Republic of Germany, the Bodybuilder shall be informed before individual agreements are concluded. The respectively valid equipment mounting directives can be accessed in the Internet under:  
<https://bb-portal.mercedes-benz-trucks.com/> (available at "Engineering and Information") and  
<https://bb-portal.fuso-trucks.com/> (available at "Technical Information").
2. The Bodybuilder shall guarantee that the vehicles equipped with its Bodies will gain all necessary approvals. All documents relevant for the registration as well as all documents that are suitable as verification that the Body or assembled vehicle meets all legal and safety requirements (conformity with state of the art and technology) shall be archived by the Bodybuilder for 15 years and shall be provided to DTAG as required.
3. Subsequent changes or additions to the services compared to the scope of services specified in the order may only be carried out by the Bodybuilder if they have been approved in advance in writing by DTAG.
4. DTAG's Technical Bodybuilder Support team must be informed immediately in writing about ranges of Bodies and conversions that do not comply with the requirements of the Body and Equipment Mounting Directive. DTAG shall reserve the right to make a technical assessment for these ranges. The Bodybuilder must submit the necessary documents for a technical assessment to the appropriate DTAG department. The Bodybuilder may request a Certificate of Safety based on the Vehicle Identification Number from the appropriate department.
5. The Bodybuilder must check that the documents provided to it for carrying out the Work are technically accurate and complete, and must notify DTAG in writing of any inconsistencies that it finds. The Bodybuilder shall assume full responsibility for the performance of its services, unless it has informed DTAG in good time in writing of its concerns regarding the scope of services that DTAG wants and the way in which DTAG wants it carried out.
6. The Bodies of the vehicles being mounted must be free of third-party rights. In addition, the Bodybuilder shall undertake to observe third-party property and trademark rights and to indemnify DTAG in this respect.

## VI. Liability for Material Defects, Service

1. Each Party shall be liable for its supply share, for any rights resulting from the sales agreement concluded between DTAG and the end customer, for example - such as providing spare parts, liability for material defects, product liability, customer service and any goodwill - and will guarantee and assume responsibility for them. In particular, the Bodybuilder will, with respect to the end customer, directly:
  - a. assume and take on responsibility for liability for material defects in its supply share, and indemnify DTAG against end customer claims regarding liability for material defects in the Bodybuilder's supply share;
  - b. guarantee the supply of spare parts for a period of at least fifteen years after the end of series production of the Body;
  - c. guarantee the availability of spare parts within a reasonable timeframe. In general, maintenance and wear parts should be delivered to the shipping address indicated within forty-eight hours in Europe or twenty-four hours in Germany and within five working days outside Europe from the time an order is received by the Bodybuilder, if the order is received by the Bodybuilder before midday on a weekday (local time at the Bodybuilder's location). Section 193 of the German Civil Code (BGB) applies accordingly;
  - d. provide or include with the vehicle any documentation required, such as repair, test and installation instructions, spare parts lists, diagnostic instructions and, if necessary, wiring diagrams, if requested. The Bodybuilder shall also prepare an operating manual for its scope of supply, including maintenance and care instructions, and shall include them with the vehicle with each order. The documentation for the base vehicle and the Bodybuilder's documentation must be written in the national language(s) of the countries of destination;
  - e. run essential information events and training after coordination with DTAG.
2. If the end customer would like maintenance/repair to be carried out by a specialist DTAG workshop (company-owned sales and service outlet or authorized service partner), Sections VI.1.b to VI.1.e shall apply accordingly.
3. The Bodybuilder must set up a service hotline to support service activities in the vehicles' countries of destination, i.e. for damage assessment, technical support for work-shops, settlement of claims and billing. The Bodybuilder must provide contact information for the appropriate contact person in the profile section of the Bodybuilder Portal. The Bodybuilder shall guarantee that the service hotline will be available from 7 am to 6 pm on weekdays (local time in the country of destination). The Bodybuilder must ensure that there is a service email address in addition to the service hotline. The Bodybuilder must guarantee the availability of communication in the national language of the country of destination for both means of communication.
4. Ordering of any necessary spare parts shall be done via an address to be provided by the Bodybuilder with disclosure of the fax and phone numbers, which can be contacted for ordering spare parts on weekdays from 7 am to 6 pm (local time in the country of destination).

It shall also be possible to order spare parts using an email address provided by the Bodybuilder for this purpose. The Bodybuilder must guarantee the availability of communication in the national language of the country of destination.
5. If no other individual written agreements have been made with provisions to the contrary, the statutory provisions shall apply concerning the period for which the scope of supply from the Bodybuilder shall be subject to liability for material defects. The liability period for material defects shall begin with the delivery of the vehicle to DTAG.
6. If, in individual cases (for example, in connection with mobility guarantees or field/customer service measures), a replacement vehicle is required because the vehicle fails to operate for reasons for which the Bodybuilder is responsible, the resultant costs shall be borne by the Bodybuilder. The assumption of costs shall be coordinated in advance with the Bodybuilder.

## VII. Product Liability

1. The Bodybuilder's liability for the product shall extend in particular to its Body and its work on the base vehicle as well as the impact of that work on the base vehicle and on the handling characteristics of the whole vehicle (hereinafter the "Work").

The Bodybuilder shall duly fulfill its obligation to inspect the products appropriately and to inform DTAG promptly in writing if it becomes aware of any defects in the product or ways in which the product is being incorrectly used that may result in risk to persons or property as a result of its Work.

In such a case, i.e. if the Bodybuilder becomes aware of a safety-relevant fact within the scope of its product observation obligation, the requirements pursuant to Section VII.5 in particular must be observed.

2. DTAG will inform the Bodybuilder without undue delay if DTAG, any of its affiliates or authorized contractors, makes, or intends to make, a claim against the Bodybuilder because of defects alleged to exist in the vehicle as a whole and which clearly cannot have been caused by DTAG alone. In cases of imminent risk to people and property, DTAG shall be entitled to take suitable measures to eliminate the risk. The costs incurred in taking these measures may be passed on to the Bodybuilder. The Bodybuilder will provide DTAG with all necessary assistance in eliminating the risk and in defending itself against the claims of alleged defects; to help the defense, the Bodybuilder will, in particular, secure any potential evidence and send copies of complaints, court documents or other relevant documents to DTAG without delay. The Bodybuilder will refrain from any activity that interferes with the defense against the claims. This duty to cooperate on the part of the Bodybuilder shall extend beyond the term of the contract and up to the expiry of any potential claims caused by alleged defects in the vehicle as a whole.
3. If the Bodybuilder is subject to a claim or is threatened with a claim for alleged defects in the vehicle as a whole, the Bodybuilder shall inform DTAG immediately in writing, unless it is obvious that the alleged defects were caused solely by the Bodybuilder's Work.

The Bodybuilder shall provide DTAG with all information relevant to this claim. To help the defense, the Bodybuilder will, in particular, secure any potential evidence and send copies of complaints, court documents or other relevant documents to DTAG without delay.

The Bodybuilder shall coordinate any measures with DTAG for mounting a defense against the claims and shall cease doing so if requested by DTAG.

4. Irrespective of the liability of the contractual partners in the internal relationship and after consultation with the Bodybuilder and considering the legitimate interests of the contractual partners, DTAG is entitled to take the lead in defending the asserted claim, to acknowledge the asserted claim in or out of court or to settle the legal dispute by way of a settlement. The costs incurred in taking these measures may be passed on to the Bodybuilder. DTAG may take aspects of risk management, public perception, efficiency and profitability into account when settling costs.

For defects that were clearly caused by the Bodybuilder, the Bodybuilder shall reimburse DTAG for the costs incurred in defending the claim (for example, any payments made to the claimant and costs for a replacement vehicle). The Bodybuilder shall undertake to recognize DTAG's current operating values.

If both Parties are responsible for a defect, all costs related to the claim for damages shall be shared between the Parties in proportion to their relative shares of responsibility for the fault. If the Parties are unable to agree on how to establish responsibility, all compensation payments must be shared out in proportion to the value added to the vehicle as a whole by each Party.

5. In assuming responsibility for the entire vehicle under product safety law, DTAG will take the lead in the implementation of field measures (customer service measures or recall campaigns), even if the potential defect is attributable to the scope of services of the Bodybuilder.

The Bodybuilder itself will inform end customers and carry out field measures in accordance with the specifications only at the express request of DTAG. Any further legal obligations or official orders are not affected by this and apply without prejudice.

The Parties will support each other to the best of their abilities in implementing the measures. The costs incurred in connection with field measures will be borne by the Parties in accordance with the principles for allocating responsibility set out in the final paragraph in Section VII.4.

6. Written correspondence with DTAG must be sent to the following address:  
Daimler Truck AG  
Legal Department (TL/PTL HPC DTF2A)  
70771 Leinfelden-Echterdingen  
Germany

7. The Bodybuilder has taken out worldwide product liability to cover all risks arising from its scopes of service. Such cover shall be sufficient – but not less than 2.5 million per claim for personal injury and damage to property – and must continue beyond the term of this agreement until all possible claims by DTAG under this agreement have expired. At DTAG's request, the Bodybuilder shall provide appropriate documentary evidence that it has taken out the policy and how much the insurance is for.
2. If further action is required to achieve the economic objective of the agreement, the Parties shall have a mutual obligation to make any further necessary declarations in favor of the other Party and to provide all the information the other Party requires, on the first occasion that they are requested to do so. In the common interest of the smooth completion of this business, both Parties will always seek to collaborate and will endeavor to eliminate together all possible disruptions as understood within this agreement.

#### **VIII. Indemnification**

1. The Bodybuilder shall indemnify DTAG and its subsidiaries and their authorized sales partners (collectively referred to as "DTAG") against all claims by third parties, including the Bodybuilder's legal representative, its employees and authorized sales partners, who are liable, directly or indirectly, for any breaches of the Bodybuilder's obligations under this agreement, including all expenses incurred by DTAG in connection with any of these third-party claims. A breach of the obligations in this agreement shall particularly be assumed if product liability claims against DTAG are asserted because of defects that are attributable to the Bodybuilder's scope of performance.
2. Third-party claims shall include:
  - Fines, financial penalties or similar, imposed as a result of claims under public law
  - Costs, fees, and other expenses incurred by DTAG in connection with the defense of third-party claims
  - Economic loss directly or indirectly relating to third-party claims
3. The Bodybuilder is not entitled to assign claims against DTAG or to allow such claims to be collected by a third party. Section 354a German Commercial Code (HGB) remains unaffected.
4. The Parties may only offset their own claims against the other Party's claims, or assert a right of retention, if their own claims are uncontested or have been established as final and absolute.
5. Unless otherwise agreed, the Bodybuilder may only advertise its business relationship with DTAG with DTAG's prior written agreement.

#### **IX. Requirements Profile**

The Bodybuilder must fill in and keep up-to-date the requirements profile, which, at conclusion of the agreement, can be found in the Daimler Truck Bodybuilder Portal at <https://bb-portal.mercedes-benz-trucks.com/de/GLOBAL>. This requirements profile shall serve as the basis for evaluation of the company. A positive evaluation of the requirements profile is a precondition for the agreement to be concluded. The address and product information stored in the Bodybuilder Portal by the Bodybuilder shall be made available to the DTAG sales organization in selected countries. The Bodybuilder shall undertake to keep the information in the portal up-to-date, updating it at least once a year. The Bodybuilder shall also confirm the accuracy of its stored data when it signs the agreement. DTAG shall reserve the right to inspect the Bodybuilder's quality management information on site as part of a free audit for the Bodybuilder.

#### **X. Compliance with Laws and Respect for Human Rights**

1. The Parties agree to comply with all applicable laws, rules, regulations and product requirements affecting the Parties' performance under the terms of this agreement, carrying the force of law including, without limitation, those of their respective state of incorporation or principal place of business, and of the state of operations (collectively referred to as "Applicable Laws").
2. Notwithstanding the above and any further provisions of this agreement, the Parties confirm that they have adequate procedures in place in order to comply with the Applicable Laws relating to antitrust, anti-corruption, anti-money laundering, sanctions and export control obligations, data protection, the prohibition of child and forced labor, labor rights, occupational health and safety, as well as environmental protection during the term of the Parties' contractual relationship.
3. The Parties agree to respect all internationally recognized human rights as expressed in the UN International Bill of Human Rights and the ILO's (International Labour Organization) fundamental conventions during the term of the Parties' contractual relationship.
4. The Parties shall ensure through the establishment, implementation, monitoring and active enforcement of pertinent policies, procedures and measures including, without limitation, the keeping of accurate books and records, that there is continuous and full compliance with all of the provisions in this Section X.

#### **XI. General**

1. The invoice must comply with the applicable legal requirements, in particular VAT identification number or tax number, date of the delivery or service, quantity and type of goods invoiced and shall be sent in single copy to the plant to be supplied. In addition, the supplier, order and chassis number, number of the delivery note/performance record, additional data of the purchaser (account assignment) and the unloading point must be stated in the invoice.