

General Terms and Conditions of Sale of TALSON TRAILERS B.V.

Article 1: General provisions.

1. All our offers (including offers made as representative of a third party), all agreements concluded with us or by us on behalf of a third party, as well as the execution thereof, and all other obligations with us are exclusively governed by these General Terms and Conditions.
2. By the mere placing of an order, the client accepts these General Terms and Conditions and is deemed to agree tacitly to their exclusive applicability.
3. Stipulations varying from these General Terms and Conditions of Sale may only be agreed on in writing and will not apply until we have confirmed these to the client in writing.
4. In these General Terms and Conditions, 'client' shall also be understood to mean representative(s), authorised person(s) and successor(s) by universal or particular title.

Article 2: Offers

1. All offers made by us, in whatever form, are subject to contract. Offers made by us in writing are valid for a period of one month.
2. If an offer is not honoured by us, this will never entail an obligation on our part to pay any compensation for loss sustained by the client as a consequence, even if an order or instruction is refused by us without giving reasons.
3. We are not liable for any errors and differences in information provided by us, such as: pictures, drawings, price lists, brochures and/or other information provided solely as general information for the client. No rights may be derived from such information.
4. All offers are submitted free of charge. They will remain our property and may be claimed back by us at any time. Without our prior written consent, the aforesaid documents, models, etc. may not be copied or multiplied in any other manner whatsoever, imitated, disclosed or shown or handed to third parties.

Article 3: Formation and amendment of agreements

1. An agreement will not be effected with us until we have confirmed the order in writing to the client. The client will be deemed to phrase the agreement accurately and completely.
2. Any additional agreements or changes made at a later date, as well as any (oral) agreements and/or commitments made or entered into by our employees or on our behalf by our sellers, agents, representatives or other intermediaries will only be binding on us if these have been confirmed by us in writing.
3. With regard to the contents of the agreement between the parties, solely that which is stated with regard to this agreement in a written confirmation and in the present General Terms and Conditions will be decisive; these provisions replace all preceding correspondence, negotiations and commitments.

Article 4: Prices.

1. We will honour the price agreed on by us with the client as specified in the order and order confirmation for at least three months after conclusion of the agreement, unless we are obliged to increase the price pursuant to statutory provisions.
2. If changes as referred to in Article 3, paragraph 2, result in increases or decreases of the cost-determining factors, the agreed price will be adjusted accordingly.
3. Unless otherwise agreed or specified by us, our prices are:
 - a. based on the level of purchase prices, wages, wage costs, national insurance costs, government charges, freights, insurance premiums and other costs applicable at the time of the offer;
 - b. based on delivery ex works, warehouse or other storage place;
 - c. based on the performance of work within the Netherlands;
 - d. stated in euros. Payment must always be in euros. In converting a foreign currency to euros, any exchange loss will be borne entirely by the client;
 - e. exclusive of BTW (Dutch VAT);
 - f. exclusive of packaging costs. These costs are only payable if and in so far as a delivery of spare parts is concerned;
 - g. exclusive of transport and insurance costs.
4. In the event of an increase of one or more of the cost-determining factors, with the exception of that which is stated in the preceding paragraph, we will be entitled to increase the price accordingly, with due observance of any relevant statutory provisions, on the understanding however that any known future price increases must be stated in the order confirmation. We will inform the client in writing of any increase in the cost price.
5. Any adjustment of the agreed price as referred to in the preceding paragraph will not entitle the client to cancel the agreement, unless this is prohibited by law.
6. The prices only apply to the goods and services referred to in the agreements. All additional goods and services delivered and provided by us will be charged separately at the price applicable on the date of delivery or provision of the service.

Article 5: Payment.

1. We will notify the client when delivery can be taken of the goods. Payment must be in a lump sum and in cash at the time when delivery to the client can be made, as specified by us. If delivery of the goods is not taken, we may charge the relevant additional costs or loss of interest to the client.
2. If, contrary to the provisions of paragraph 1 of this article, a later payment date is agreed on, we will be entitled to request interim financial security if and in so far as we deem this to be necessary.
3. The client is not entitled to any discount or compensation of whatever nature, unless this has been approved by us in writing.
4. Each payment made by the client will in the first place serve to settle the costs incurred by us, subsequently to settle the interest due and finally to settle the oldest outstanding debt.
5. If the amount due according to an invoice is not paid by the client within the term specified by us, we will be entitled to charge the client interest on the total amount still outstanding of 1½% a month, or part of a month, without any notice of default being required.
6. If we are compelled to give the unpaid invoice or part thereof to a third party for collection, the client must pay all the ensuing judicial and extrajudicial costs. The extrajudicial costs are fixed at a minimum of 15% of the principal, with a minimum of EUR 150, excluding BTW.
7. The outstanding invoice amount is in any case immediately due and payable: if the amount due by the client is not paid promptly, if the client is declared insolvent or bankrupt, has applied for or been granted a moratorium, has applied for a debt rescheduling arrangement or has been placed under guardianship, if any goods and/or claims of the client have been attached or if the client dies, is wound up or announces that it will or has ceased its business operations or will transfer its business operations to another party.

Article 6: Delivery period.

1. A delivery date specified in an offer sent by us is not a strict deadline, unless explicitly agreed otherwise in writing.
2. The delivery period will not commence until the agreement has been concluded, all information necessary in order to commence execution of the agreement has been received by us, payment, in so far as this must be made on conclusion of the agreement, has been effected and we are in all other respects able to execute the agreement.
3. The delivery date is set in the expectation that the circumstances under which the agreement can be executed by us will remain the same as they were or were expected to be at the time the agreement was concluded. The delivery date may be changed by us if:
 - a. more and/or additional work is assigned or arises after conclusion of the agreement; we are unable to fulfil our obligations on account of force majeure. In such case, the provisions of Article 11 of these General Terms and Conditions will continue to apply in full.
4. Only if a delivery period has been explicitly agreed in writing as binding will the client be entitled to terminate the agreement if we have not delivered the ordered goods within this period, but not until we have been granted, by registered letter, a further period of at least 14 days to still fulfil our obligation to deliver, all this without prejudice to the provisions of Article 11 of these General Terms and Conditions.
5. Mere failure on our part to meet the specified deadline for delivery will not entitle the client to suspend its obligations towards us, to terminate the agreement or to demand compensation.

Article 7: Delivery and transport, transfer of risk.

1. Goods will be delivered ex factory.
2. Transport of the goods will be provided by us at the client's request, on the understanding that we will determine the mode of transport and will appoint a carrier. The goods will be delivered to the client ex factory. From the time the goods leave our factory they will be entirely at the client's risk and expense.
3. The transport costs and other costs payable to us by the client in connection with the transport will be charged separately from the price stated in the order confirmation.

Article 8: Delivery and installation.

1. The goods will be deemed delivered if, in so far as they must be delivered by us, they have been made available to the client in full working order or, in the case of delivery ex factory, from the time they have been made available to the client.
2. We will inform the client in writing that the goods are at the client's disposal in working order.
3. Provided that the client notifies us thereof in good time, the client has the right to inspect the goods, at the client's expense, prior to delivery at a time and place to be agreed on, and to verify whether the goods comply with the technical specifications stated in the offer. A quality audit may also be conducted by the client at that time.
4. The costs of the inspection by the RDW (Centre for Vehicle Technology and Information) or any other body will be at the client's risk and expense. Any delays with regard to the inspection, other than due to any act or omission on our part, cannot be enforced as against us. The client will remain obliged to pay us the amount due on the agreed date.

Article 9: Retention of title.

1. We will retain title to all goods delivered by us to the client until the client has fulfilled its obligations towards us. Subject to the provisions of this article, title to the goods will not transfer to the client until payment – in accordance with the provisions of Article 5 of these General Terms and Conditions – of the consideration payable to us has been made in full by the client, including interest and expenses (and, if delivery is on account, not until any balance payable by the client has been settled).
2. The client will be considered to be keeping the goods for us until payment as referred to in the preceding paragraph has been made in full. Nevertheless, the client will in any case bear the risk of loss of or damage to the goods, through whatever cause, and/or damage and/or loss caused by these goods, from the time the goods have been delivered. The provisions of Article 7 will continue to apply in full.
3. The client is not authorised to fully or partially alienate, encumber or pledge the goods delivered by us or to otherwise bring these goods under the control of third parties or lease them to third parties until we have been paid in full and title to the goods has transferred to the client.
4. In so far as we may lose retention of title by specification, we will acquire, as security for proper payment of our claim and on inception of this claim, a non-possessory pledge on all those goods in which goods delivered by us have been processed or of which they form a part. The offer or agreement signed by the client will in this respect be considered to be a private instrument as defined by law.
5. Without prejudice to any other rights we may have, we will have the right, for as long as title to the goods has not transferred to the client either due to a failure to fulfil the payment obligations towards us, or a failure to do so in good time, or otherwise, to take back the goods without authorisation and without any notice of default or judicial intervention, and to consider the agreement to be terminated, without being obliged to pay any compensation and without prejudice to the right to claim compensation from the client for the loss sustained by us, if:
 - a. the client acts in breach of these General Terms and Conditions;
 - b. movable and/or immovable property of the client is attached;
 - c. the client loses the right to dispose of its assets;
 - d. the client is declared insolvent or bankrupt or is granted a moratorium;
 - e. the client refuses to provide interim security at our request, in so far as we deem this to be necessary;
 - f. the client announces that it wishes to discontinue its business operations or has already done so.

Article 10: Intellectual and/or industrial property rights.

1. All intellectual and/or industrial property rights to which we are entitled, in respect of models, brochures, folders, drawings, manuals, processes, know-how, technical inventions, calculations, etc., will at all times remain vested in us, irrespective of whether the goods and services to which those rights relate are sold, rented out, leased, given on loan or donated by us or are otherwise made available by us to the client or a third party, or are processed in other goods.
2. The client guarantees us that the use by the client of the information provided by us will remain within statutory regulations and will not violate any protective rights of third parties. The client will indemnify us against all claims by third parties against us on account of a violation of this guarantee.

Article 11: Force majeure.

1. Situations of force majeure on our part exist, inter alia, if we are prevented, after conclusion of the agreement, from fulfilling our obligations arising from this agreement or from carrying out the preparations involved due to war, threat of war, civil war, riots, acts of war, fire, water damage, floods, strikes, sit-down strikes, lockouts, import and export impediments, government measures, machine defects, power failures, all this in our own company as well as in the company of third parties, including suppliers from which we either fully or partially obtain the required materials or raw materials, and also in respect of storage, either in our own company or otherwise, and furthermore for whatever other reasons arising through no fault of our own or outside our control.
2. In the event of force majeure, we will have the right, at our discretion, to either suspend fulfilment of our obligations for the duration of the impediment or to cancel the agreement, without being obliged to pay the client any compensation as a consequence.
3. Should the client demand this from us in writing, we will be obliged to state in writing what we choose to do within 8 days.
4. The statutory provisions relating to force majeure apply in full force, at least to the extent that these provisions are not in conflict with the provisions of these General Terms and Conditions.

Article 12: Guarantee and complaints.

1. For a period of 12 months after delivery ex company or any such shorter period as we are issued a guarantee for by our suppliers, we will issue a guarantee for the goods delivered by us, covering hidden manufacturing defects and/or hidden defects in the material, even if the client has not put the goods into use. Delays caused by the client will not suspend this period.
2. 'Hidden manufacturing defects and/or hidden defects in the material' are understood to mean those defects which render the goods unsuitable for their designated use or which reduce this use in such manner that, had the purchaser been aware of the defects, the purchaser would not have purchased the goods at all or would not have purchased them other than at a reduced price.
3. Our liability under the guarantee referred to in paragraph 1 is limited to rectifying defects in the material or finish arising within the guarantee period, by repairing or replacing the goods, such as at our discretion and expense, with a maximum equal to the invoice amount of the goods concerned.
4. If, in fulfilling our obligations, we have obtained goods from third parties, we will provide a maximum guarantee equal to the guarantee we have been provided by the third party, subject to the provisions of the preceding paragraph.
5. Complaints with regard to visible defects in the delivered goods must be submitted to us in writing, immediately, yet not later than within 14 days of the goods having been delivered to the company/warehouse, with a detailed description of the nature and grounds of the complaint. The client must grant us the opportunity to ascertain the merits of the complaint on site.
6. Any claims under the guarantee will lapse immediately in the following cases:
 - a. if the client has repaired a defect or has had a defect repaired without our explicit prior permission in writing;
 - b. if the client fails to comply strictly with the client's payment obligations;
 - c. delayed delivery in whatever way attributable to the client;
 - d. failure to strictly follow the company or operating instructions and failure to use the goods supplied according to their nature and general technical standards;
 - e. unsatisfactory maintenance;
 - f. assembly and/or repairs and/or putting into operation by the client or a third party of the delivered goods without our explicit consent;
 - g. modifications to the delivered goods or installed systems made by the client or by third parties.
7. If in a specific case one or more paragraphs of this article are in conflict with an applicable mandatory provision, the paragraph or paragraphs in question will not apply in that particular case only.

Article 13: Liability.

1. We will never be liable for any loss and/or damage, of whatever nature, including consequential damage and/or loss, in respect of movable or immovable goods or individuals, not even if the damage and/or loss is caused by goods delivered by us, by services performed by us or by work performed by us, unless prescribed otherwise by mandatory law and unless the loss and/or damage is caused by intent or gross negligence on our part.
2. Our liability towards the client with regard to goods delivered by us to or services performed by us for the client and/or third parties will under all circumstances be limited to the invoice amount, excluding BTW, to a maximum equal to the amount covered by our insurance in the case in question. Any further liability, for whatever reason, is excluded.

Article 14: Disputes.

1. All disputes, including any disagreements which only one party considers to be a dispute, which may arise between us and the purchaser/client in connection with or as a result of the agreement(s) existing between us will, without prejudice to the parties' right to obtain a decision from the President of the District Court giving judgment in interlocutory proceedings and with the exclusion of every other judicial authority, be submitted to the judgment of the competent District Court of 's-Hertogenbosch.

Article 15: Applicable law.

1. All agreements concluded with us are governed exclusively by the laws of the Netherlands, with the exclusion of the Vienna Sales Convention (dated 11 April 1980, Treaty Series 1981.84 and 1986.61).