



## GENERAL TERMS AND CONDITIONS OF HESSELINK TRUCKS B.V.

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### **Section A: General**

#### **1. Applicability and definitions**

- 1.1 These general terms and conditions apply to all agreements concluded with Hesselink Trucks B.V. (“**Hesselink**”) for the sale, hire, use and/or delivery, import and export of trucks, trailers, other vehicles, parts and accessories (“**vehicles**”), and all quotations issued by Hesselink. These terms and conditions also apply to various services supplied by Hesselink, such as searches.
- 1.2 Part A ‘General’ applies in all cases. Where part A refers to the “**buyer**”, this means the other party to Hesselink, even if it concerns hire or an order, for example.
- 1.3 Part B ‘Additional terms and conditions for hire and/or use of the vehicles’ applies to all quotations and agreements in relation to the hire and/or use of trucks, trailers, other vehicles, parts and accessories.
- 1.4 The applicability of any terms and conditions of purchase of the buyer is explicitly rejected. Such terms and conditions are not applicable and any references to these terms and conditions do not have any effect.
- 1.5 Deviations from these terms and conditions are only valid if they have been laid down in writing.

#### **2. Quotations and conclusion of agreements**

- 2.1 All offers made by Hesselink are without obligation, even if they have been incorporated in a quotation or a pro forma invoice and even if an acceptance deadline has been included.
- 2.2 An agreement is concluded by written confirmation of the order by Hesselink or by both parties signing a written agreement.
- 2.3 Additions and changes to these terms and conditions are only valid if they have been laid down in writing.
- 2.4 All information about the vehicles, for example on the website, is compiled with care. Nevertheless, errors and mistakes may occur in the information. Those errors and mistakes are not binding for Hesselink. Only if the vehicle deviates from what the buyer had expected on the basis of Hesselink’s declarations such that the buyer cannot reasonably be asked to purchase the vehicle, does the buyer have the right to dissolve the agreement. In that case, Hesselink is not liable for any loss or damage.

#### **3. Prices and payment**

- 3.1 All prices are exclusive of VAT.
- 3.2 Hesselink may always pass on an increase in taxes and other government levies one-for-one.

- 3.3 In the event of an increase in purchase costs and/or other factors determining the cost price, Hesselink may pass on that increase too. If that increase is higher than 10% of the agreed price, Hesselink shall liaise with the buyer. If that fails to lead to a solution, the buyer has the option of rejecting the purchase, and/or terminating the agreement upon payment of costs incurred by Hesselink.
- 3.4 Payment must take place no later than upon delivery. If invoicing takes place subsequently, a payment term of 14 days after the invoice shall apply. All payments must be made within the payment term without deduction, set-off or deferral. In the event of late payment, the customer will be in default without further notice of default being required.

#### **4. Delivery**

- 4.1 Hesselink makes every effort to meet agreed schedules and deadlines. However, the deadlines are indicative and not final.
- 4.2 As soon as the vehicle is ready, Hesselink shall notify the customer. A delivery date will then be scheduled. In principle, the buyer must collect the vehicle within five working days of it being reported ready. If it takes longer than this, Hesselink has the right to store the vehicle at the buyer's expense and risk or to dissolve the agreement.
- 4.3 Delivery in principle takes place "ex works" (Incoterms 2020).
- 4.4 If it has been agreed that Hesselink will deliver a vehicle at a different location, the delivery will take place "CPT" (Incoterms 2020). In that case, the risk passes over at the moment that Hesselink has passed the vehicle to the carrier.

#### **5. Retention of property**

In the case of purchasing, the vehicles remain the property of Hesselink until all the amounts that they buyer is due to pay to Hesselink have been met in full. As long as Hesselink is the owner of the vehicles, the buyer is required to use the vehicles carefully and to insure them against fire, theft and loss/damage. During this period, the vehicles are not eligible for transfer to third parties and the buyer is not entitled to transfer the vehicles. When first requested to do so, the buyer must give their full cooperation to the return of the vehicles.

#### **6. Technical condition of purchased vehicles**

- 6.1 Hesselink trades in used vehicles. The vehicles are sold without any guarantee in relation to the technical condition, absence of any defects or the suitability for any purpose. The buyer has the opportunity, if desired, to conduct their own inspection.
- 6.2 Any claim to compensation, discount, repair, fulfilment or replacement, and any claim to full or partial dissolution, destruction, or whatever other remedy based on the technical condition, technical defects, the quality and/or performance of the vehicle are explicitly excluded. In that context, the buyer relinquishes his right to appeal to Book 6 Section 228 of the Dutch Civil Code, Book 6 Section

230 paragraph 2 of the Dutch Civil Code and Book 7 Section 17 of the Dutch Civil Code and/or the other legal provisions that would have similar effects.

- 6.3 If the buyer is dissatisfied for whatever reason, he must report this, notwithstanding the provisions in article 6.2, upon delivery, but in any case 24 hours after discovering the cause of the dissatisfaction.

## **7. Liability**

- 7.1 Hesselink's liability is limited to the amount covered by its liability insurance. The liability shall not, under any circumstances, exceed €25,000.
- 7.2 Hesselink is not liable for indirect loss or damage, including consequential damage, lack of profit, missed savings, or loss or damage caused by business stagnation.
- 7.3 The aforementioned limitations to liability do not apply if the loss or damage is the result of Hesselink's own intent or of gross negligence by Hesselink itself.
- 7.4 This article was partly written for the benefit the directors, employees and shareholders of Hesselink and by third parties brought in by Hesselink. They may also call on the limitations of the liability.
- 7.5 Hesselink's liability expires once twelve months have passed from the moment of delivery or, if that is earlier or if there hasn't been a delivery, from the moment when the buyer largely knew of the circumstances that led to the damage.

## **8. Dissolution**

Hesselink has the right to dissolve or suspend any agreement in whole or in part with immediate effect, and all due amounts shall be payable immediately, if, in relation to the buyer, a request for bankruptcy, (provisional) moratorium, or debt management is submitted. This dissolution option applies in addition to the legal powers to dissolve.

## **9. Force majeure**

- 9.1 Hesselink is not obliged to fulfil any obligation if it is prevented from doing so by a situation that qualifies as force majeure. In these general terms and conditions, in addition to what is understood by it in the law and case law, force majeure is understood to mean all external causes, anticipated or unanticipated, on which Hesselink is unable to exert influence. This partially includes problems in the anticipated supply of vehicles and parts, however that came about. All government restrictions, for example restrictions relating to epidemics and pandemics, could also result in force majeure.
- 9.2 During the period that the force majeure continues, Hesselink may suspend the obligations ensuing from the agreement. If this period lasts longer than two months, each of the parties is entitled to dissolve the agreement, without obligation to pay compensation to the other party..

## **10. Other provisions**

- 10.1 The buyer is not permitted to transfer any right from an agreement concluded with Hesselink to third parties without the consent of Hesselink.

- 10.2 If any provision of these terms and conditions is void or becomes invalid, the other provisions of these terms and conditions shall not be affected. In that case, the parties shall enter into talks with the aim of agreeing on new provisions to replace the void or invalid provisions, whereby the purpose and the tenor of the original provisions are observed.
- 10.3 The relationship, the order and all undertakings ensuing therefrom are subject to Dutch law. The district court of Overijssel, Almelo site, has sole jurisdiction to hear any disputes.

## **Part B: Additional provisions for hire and/or use of the vehicles**

Part B only applies to hire or use of vehicles (“**hired vehicles**”).

### **11. Legal property**

- 11.1 Hesselink remains the owner of the hired vehicles.
- 11.2 The customer guarantees that Hesselink’s rights to the hired vehicles are not affected and that they are free from any right of pledge, encumbrance or security interest on the hired vehicles. The customer relinquishes its potential right to retention.

### **12. Technical condition of hired vehicles**

- 12.1 Hesselink hires out used vehicles. Hesselink guarantees that the hired vehicle has been properly maintained and is inspected periodically. Other than this, the vehicles are hired out without any guarantee in relation to the technical condition, absence of any defects or the suitability for any purpose. The customer has the opportunity, if desired, to conduct their own inspection.
- 12.2 In the event that a hired vehicle fails to fulfil the agreement, Hesselink has the option of providing a replacement vehicle. In that case, the customer must deliver the original vehicle to Hesselink’s site, where the replacement vehicle will be provided. If Hesselink decides not to provide a replacement vehicle, the customer has the option of terminating the hire early. Hesselink is not liable for any damage.

### **13. Use**

- 13.1 The customer shall use the hired vehicle safely and with great care. This means that all instructions and limitations issued by or on behalf of Hesselink are observed, including the following:
- (i) Every person who drives, uses or works on the vehicle must be competent and sufficiently competent to do so. He/she must be familiar with the instructions and limitations.
  - (ii) The vehicle may only be used in accordance with its intended use. If no further agreements have been reached about the intended use, the vehicle is intended to be used as a mode of transport for goods within the customer’s regular industry. People, animals and/or illegal goods must not be transported.

- (iii) The vehicle must not be loaded excessively and/or in an unbalanced manner. Goods must not be transported that cause damage to the vehicle. The vehicle must be locked properly and always parked in a secure environment.
  - (iv) The vehicle must be used in accordance with the applicable legislation and regulations.
  - (v) The vehicle must only be used for work within the agreed area. If no specific territory has been agreed, the vehicle may be used within the borders of the European Union, Switzerland and/or Norway.
  - (vi) It is not permitted to hire out the vehicle or in any other way give the vehicle to third parties to use, to pledge the vehicle, or to establish any limited right thereto.
  - (vii) It is not permitted to make changes or additions to the vehicle, including logos and stickers etc.
  - (viii) Any faults or defects must be reported to Hesselink immediately. Faults and reports must never be sidestepped or ignored.
- 13.2 The customer is responsible for the day-to-day maintenance of the vehicle. This means that the customer is obliged to inspect the vehicle daily and to carry out day-to-day maintenance work. Daily inspections and and daily essential maintenance work comprise in any case, but are not limited to, the inspection and if necessary repair, replacement and/or adjustment of the wheel nuts, tyre pressure, lights, oil level, and level of other liquids and other technical matters. The customer is also obliged to wash the vehicle regularly, both inside and outside, and to clean it.
- 13.3 In the event of the violation of article 13, the customer is immediately in default and Hesselink has the right to terminate the agreement with immediate effect.
- 13.4 The customer indemnifies Hesselink for and against all fines, losses, damage and claims made by third parties relating to the use of the vehicle.

#### **14. Return of the vehicle**

- 14.1 The vehicle, including all documents, must be returned no later than on the last day of the agreed period or – if earlier – when the agreement terminates. The customer must return the vehicle in accordance with the instructions given by Hesselink relating to time and place. Any costs for return delivery shall be covered by the customer.
- 14.2 When the vehicle is returned, it must be washed, clean and free from damage, in good working order and in the same condition as when the vehicle was delivered to the customer.

#### **15. Loss and indemnity insurance**

- 15.1 Loss or damage to the vehicle must be reported to Hesselink immediately. The customer must supply Hesselink with all details and forms relating to the damage, including in any case the details of the person who caused the damage, the claim form and photos, possibly supplemented with documents from the police and witness statements.



- 15.2 In the event that the vehicle is missing or stolen, the customer must notify the police immediately. The customer shall provide Hesselink with a copy of the report.
- 15.3 The customer is liable for all damage to the vehicle in the period following delivery to when the vehicle is returned, unless the damage is attributable to Hesselink. The fact that Hesselink may have taken out an insurance that offers cover for the damage (or a part thereof) does not impair this liability.
- 15.4 The customer must take out adequate insurance for himself, naming Hesselink as co-insurer in the insurance policy. An adequate insurance is understood to mean a liability insurance (Motor vehicles) in accordance with directive 2005/14/EC, with cover against theft, damage and loss. The customer shall produce proof of this insurance when requested to do so by Hesselink.