

**General Conditions of Sale
of
TRAXIM B.V.**

1. Applicability

- 1.1 These general terms and conditions shall apply to the conclusion of agreements for the supply of goods and the execution of work by TRAXIM B.V. - hereinafter referred to as: "TRAXIM" - and to the performance of such agreements. The general conditions (of purchase or tendering), if any, of the buyer or principal of TRAXIM (hereinafter always referred to as: "the Buyer") shall not apply - not even in conjunction with the present general conditions - and the possibility of such general conditions being applicable is hereby explicitly excluded.
- 1.2 Variations of and/or additions to these general conditions shall be binding on TRAXIM only if and to the extent that TRAXIM has explicitly accepted the validity thereof in writing.

2. Price lists; catalogues

Statements of prices, of goods offered for sale and of specifications included in general offers such as catalogues, price lists and other printed material, shall not bind TRAXIM and the Buyer cannot rely thereon. TRAXIM may at any time end the sale of certain goods mentioned in such documentation.

3. Prices

- 3.1 Unless otherwise stated by TRAXIM all amounts are expressed in Euro's, the costs of transport and everything in connection therewith, insurance and packing costs and VAT and other levies imposed by the authorities, excluded.
- 3.2 TRAXIM shall not be bound by any price quotation unless it has explicitly and unambiguously indicated that a quotation is binding upon TRAXIM or unless and because TRAXIM has confirmed an order at a fixed price.
- 3.3 Unless explicitly agreed otherwise in writing, TRAXIM may pass on any cost increases occurring subsequent to the conclusion of the agreement, for instance as a result of an increase in the prices of raw materials, materials or parts, in the costs of energy, in transport costs or import duties charged to TRAXIM in respect of materials, in salaries and wages or social security charges to the Buyer, by increasing its price accordingly. Increases of VAT and of any other levies imposed by the authorities may always be passed on.

4. Delivery and passing of risk

- 4.1 If an international trading term is used in an agreement such term refers to delivery in accordance with the definition of this trading term in the most recent edition of the Incoterms of the International Chamber of Commerce (ICC).
- 4.2 Unless otherwise agreed, delivery shall be made "ex works" Roggel, the Netherlands.
- 4.3 The risk of loss of and/or damage to the goods to be delivered shall pass to the Buyer as soon as TRAXIM has fulfilled its obligation to deliver the goods.
If the Buyer fails to take delivery or timely delivery or omits to give TRAXIM such instructions as are needed by TRAXIM in order to be able to fulfil its obligation to deliver, the said risk shall also pass to the Buyer and all costs incurred by TRAXIM in view of or in connection with the delivery, as well as any further costs of transport, safekeeping and storage shall be borne by the Buyer.
- 4.4 If goods given to TRAXIM by the Buyer for the purpose of processing are damaged, destroyed or stolen due to a cause for which TRAXIM is not responsible, the Buyer shall still owe the price for the work done by TRAXIM, and TRAXIM shall not be liable to pay the Buyer any compensation whatsoever.

5. Delivery periods

- 5.1 If payment by the Buyer is to be made by irrevocable letter of credit, the delivery period shall begin to run on the date on which the bank has advised TRAXIM that the letter of credit has been opened in accordance with TRAXIM's requirements, unless it has been explicitly agreed otherwise in writing. If the Buyer must make an advance payment or give security for the payment or if the Buyer must furnish information and/or materials or parts required for the execution of the work, then the delivery period shall not begin to run until such payment has been received in full or security has been given or the information and/or materials or parts have been

furnished in full, respectively.

- 5.2 Stated delivery periods shall never be considered as absolute deadlines. Unless it is undoubtedly certain that performance is permanently impossible, agreements may not be cancelled by the Buyer and the Buyer cannot claim compensation due to late delivery, unless TRAXIM still fails to perform or fully perform the agreement within a reasonable period notified to TRAXIM after the expiry of the agreed delivery period. In such case the agreement may be cancelled only to the extent that the Buyer cannot reasonably be expected to maintain the agreement.
- 5.3 If TRAXIM has undertaken to arrange for the transport of the goods, but due to reasons referred to in article 14 no means of transport are available to ensure the timely delivery of the goods at the place of delivery, then the parties shall in common consultation seek a solution that is acceptable to both. If no such solution presents itself within a reasonable period, TRAXIM shall have the right to suspend delivery or to store goods in a warehouse not managed by TRAXIM and not forming part of its plant, at the Buyer's expense and risk.

6. Modifications of the specifications

TRAXIM is authorised to modify the specifications or the design of goods ordered or otherwise, if these specifications have been modified after the Buyer has placed his order, to deliver goods in conformity with such modified specifications or design, provided that the goods are designed for the same purpose as the goods ordered and are not essentially different from the goods ordered. TRAXIM is also authorised to modify the specifications or design if, due to a lack of materials or any other cause, it is unable to meet the standard specifications or special specifications agreed with the Buyer. In the aforementioned cases TRAXIM shall have fulfilled its obligation to deliver by delivering the goods thus modified.

7. Payment

- 7.1 Unless explicitly agreed otherwise in writing, payment shall be made at the option of TRAXIM either in cash upon delivery of the goods or completion of the work, as the case may be, or against an irrevocable letter of credit on conditions approved by TRAXIM, and confirmed and payable by a bank designated by TRAXIM.
- 7.2 The Buyer shall not be entitled to set off his debt to TRAXIM against a counterclaim on TRAXIM.
- 7.3 TRAXIM shall be entitled to make partial deliveries and to invoice each delivery.
- 7.4 If any payment is overdue, the Buyer shall be in default without any notice of default or demand being required and shall owe interest on the arrears at the rate of 1% per month or - if the latter is higher - the legal interest, which interest shall be immediately due and payable.
In addition TRAXIM shall have the right, in the event of any overdue payment, to deliver the goods intended for the Buyer to another customer without the Buyer being released from the agreement as a result thereof. As soon as TRAXIM has received the arrears, a new delivery period shall apply of such duration as to enable TRAXIM to deliver similar goods to the Buyer as yet. If after a demand notice a payment still has not been received within a fixed period notified to the Buyer, then TRAXIM shall be authorised at its option to cancel the agreement either in whole or in part by a written notice, without prejudice to its right to damages.
- 7.5 All costs, both extrajudicial and judicial (including the costs of legal assistance), incurred by TRAXIM maintaining its rights vis-à-vis the Buyer shall be borne by the Buyer. The extrajudicial costs shall amount to at least 15% of the amount due, subject to a minimum of EURO 1,000.00.
- 7.6 Any amounts which the Buyer owes TRAXIM under the agreement shall become immediately due and payable in full if: (a) the Buyer has been granted suspension of payments or goes bankrupt or a similar situation under the laws of the country in which the Buyer is established, (b) the Buyer decides to stop or transfer his enterprise or part(s) thereof, (c) the Buyer has failed more than twice to make timely payment. In the abovementioned situations TRAXIM shall be authorised to cancel all agreements with the Buyer with immediate effect, if upon a demand to such effect the Buyer has not, within eight calendar days, given such security as is deemed adequate by TRAXIM for all amounts the Buyer owes or shall owe to TRAXIM, without prejudice to all further rights of TRAXIM.

8. Deliveries within the European Union

- 8.1 If a delivery is an intracommunity delivery (within the meaning of art. 28 Quater, under A, EEC Directive 77/388) and the Buyer wishes to use the VAT zero rate that is applicable to such deliveries, the Buyer must inform TRAXIM before the agreed delivery time, in writing of the VAT identification number assigned to him in the EU Member-State of destination of the delivery. In addition, if the transport is arranged by the Buyer himself, he must furnish a statement to TRAXIM and on TRAXIM's request must furnish evidence that the

good or goods will be transported to the said other EU Member-State.

- 8.2 If TRAXIM is unable to verify the VAT identification number thus stated to TRAXIM in time or if it appears upon verification that this number cannot be used, then TRAXIM will consider the delivery as a domestic delivery and will therefore charge the Buyer VAT accordingly.
- 8.3 If on the ground of the information furnished by the Buyer, TRAXIM finds it sufficiently credible that the delivery in question is an intracommunity delivery and for this reason does not charge the Buyer VAT, the Buyer shall be bound to send the documents proving that the good or goods has/have actually been transported to the destination stated by the Buyer as soon as possible.
- 8.4 If the documents referred to in the preceding or in the following paragraph respectively, are not received by TRAXIM in time or if in the opinion of TRAXIM the documents do not constitute sufficient proof of the transport to the other EU Member-State or if there are other reasons for TRAXIM to doubt the said transport, then TRAXIM shall have the right to charge the Buyer VAT after all.
- 8.5 If the transport is arranged by TRAXIM but the tax authorities do not accept on the ground of the relevant data or evidence furnished by TRAXIM that it is an intracommunity delivery, then the Buyer shall to the best of his ability, in particular by furnishing additional written evidence, enable TRAXIM to prove the intracommunity delivery to the tax authorities.
- 8.6 Without prejudice to paragraph 4 above, it is provided that if VAT is levied after all from TRAXIM on a delivery which TRAXIM considered to be an intracommunity delivery, then the Buyer shall be bound to pay TRAXIM the amount of this tax plus any additional charges and fines upon TRAXIM's first request to such effect, without TRAXIM being bound to dispute that such VAT or additional charges and fines are payable by lodging a notice of objection or of appeal.

9. **Reservation of ownership**

- 9.1 Without prejudice to the provisions relating to the passing of the risk, the ownership of all goods delivered shall remain with TRAXIM until the Buyer has paid all amounts he is owing TRAXIM now or in the future, including but not limited to amounts the Buyer owes to TRAXIM on account of or in connection with deliveries of goods.
- 9.2 The Buyer shall store all parts supplied by TRAXIM in such a way that they are clearly identifiable as the property of TRAXIM. The Buyer shall record in his books which goods (both vehicles and parts) are the property of TRAXIM and shall carefully store such goods. The Buyer is bound to insure the said goods against loss, theft and damage.
- 9.3 As long as the Buyer operates a reselling business, he is authorised to sell the goods belonging to TRAXIM by virtue of the reservation of ownership in the course of his ordinary business operations. The Buyer has no authority to pledge, or otherwise encumber (including but not limited to creating any security interest on) such goods. When reselling in accordance with the first sentence of this article, any agreement with the Buyers customers shall include a reservation of ownership clause to the same effect and on the same conditions as the reservation of ownership provisions included in the agreement between TRAXIM and the Buyer. The Buyer shall keep record of any delivery of such goods to a customer, stating the name and address of this customer and the price charged to the customer or the insurance payments made to the Buyer in respect of the goods, as the case may be.
- 9.4 If the Buyer fails to perform any obligation under the agreement with TRAXIM or fails to pay any due and payable claim of TRAXIM or if TRAXIM has good reasons to be concerned that the Buyer shall fail to perform such obligation or pay such debt(s), TRAXIM shall be entitled to take back at the Buyer's expense the goods belonging to TRAXIM, wherever the goods may be. The Buyer is bound to cooperate fully in such situation. The Buyer shall give TRAXIM further security for its obligations vis-à-vis TRAXIM, whether supplementary or not, on first demand.
- 9.5 TRAXIM may assign (part of) its claim vis-à-vis the Buyer to a third party. The Buyer and TRAXIM explicitly agree that such an assignment and/or the consideration received in connection therewith by TRAXIM, if any, does not constitute fulfilment of the condition (*voorwaarde*) as referred to in section 3:92 lid 3 of the Dutch Civil Code (*Burgerlijk Wetboek*).
- 9.6 If the law of the country in which the goods are located at any point in time does not permit a reservation of ownership by TRAXIM as stipulated in this paragraph 9, TRAXIM shall have the rights of a similar purport as the said reservation of ownership which are permitted under the applicable law.

10. Complaints and returns

- 10.1 If TRAXIM has undertaken the transport of the goods, the Buyer must examine the goods for transport damage immediately upon their delivery and if any damage is found he must make a detailed note thereof on the transport document to be signed after receipt of the goods. The Buyer shall send this transport document to TRAXIM within two (2) working days after delivery of the goods. Any transport damage which is not immediately apparent upon delivery must be reported by the Buyer to TRAXIM in writing with a detailed description within four (4) working days after delivery of the goods. The decisive date for determining whether or not the Buyer has complained within the periods mentioned above shall be the date on which TRAXIM has received the report in question. The Buyer's right to invoke transport damage ends if the Buyer has failed to meet these conditions of complaint.
- 10.2 Defects which are immediately apparent upon delivery must be reported by the Buyer to TRAXIM in writing with a detailed description within two (2) working days after delivery. Defects in the goods as well as any deficiency in the quantity of goods delivered which can be detected upon careful inspection must be reported by the Buyer to TRAXIM in writing within eight (8) calendar days after delivery on pain of forfeiting the right to invoke such defects and deficiencies.
- 10.3 If the parties agree that the goods will be returned to TRAXIM, the goods shall be shipped in accordance with the instructions of TRAXIM, preceded by a written notice stating the reason why the goods are returned and the date and the number of the invoice. The Buyer shall pay the costs of transport and insurance payable in connection with the return in advance. The goods must be returned in their original packing.
- 10.4 Deficiencies or defects in goods delivered by TRAXIM or services rendered by TRAXIM shall never constitute a ground for cancelling the agreement in question, unless and to the extent that the Buyer cannot reasonably be expected to maintain the agreement. In respect of new goods the provisions relating to the right of cancellation laid down in article 11 shall apply.

11. Guarantee

In respect of any defects in new goods (including parts) supplied by TRAXIM, the provisions laid down in the standard terms of guarantee of the manufacturer, in force at the time of delivery, shall apply. Subject to these terms of guarantee TRAXIM undertakes to replace or repair defective (parts of) goods free of charge. The standard guarantee shall not apply in respect of defects which have arisen as a result of normal wear and tear or careless or incompetent use, or as a result of accidents or calamities such as damage by fire or water, or if a business other than a business authorised by TRAXIM has modified or repaired the goods, or if parts are or have been used which have not been supplied by TRAXIM. The Buyer shall only have the right to claim under the guarantee if he has fulfilled all his obligations towards TRAXIM. All costs of repairs not covered by the guarantee shall be charged to the Buyer. Defects in the goods delivered shall never constitute a ground for cancelling the agreement, unless even after repeated attempts TRAXIM still fails to remedy the defects under the terms of guarantee.

12. Liability for damage

- 12.1 TRAXIM is not liable for any damage resulting from defects in the design, manufacturing or instructions of or for goods supplied by TRAXIM or resulting from defects in work performed by TRAXIM, unless the defects in question are due to gross negligence on the part of TRAXIM. If TRAXIM is liable for damage, then TRAXIM shall never, be bound to compensate for consequential damage, such as (but not limited to) property damage, loss of profit or reduced proceeds. In all cases the liability of TRAXIM shall never exceed an amount equal to the net invoice value - (being the gross invoice value minus VAT, minus any other levies imposed on the price by the authorities and minus additional costs such as the costs of transport or insurance, if applicable) - of the delivery or services related to the damage.
- 12.2 The Buyer shall indemnify and hold TRAXIM harmless from all claims on any account whatsoever of third parties, including customers of the Buyer, who allege to have suffered damage through goods and/or services delivered or rendered by TRAXIM to or by order of the Buyer. The Buyer shall compensate TRAXIM for all damage, including costs, suffered by TRAXIM as a result of or in connection with such claims of third parties. This liability to indemnify shall not apply if and to the extent that the Buyer proves that in its relationship to the Buyer TRAXIM is liable for the damage in question under the provisions of the agreement and these general conditions, nor if a claim is made against TRAXIM under statutory provisions implementing EEC Directive 85/374.

13. Instructions for use

- 13.1 The Buyer shall observe the verbal or written directions and instructions furnished by TRAXIM, for instance relating to assembly, maintenance, handling and use, and shall make the contents thereof known to his employees and other third parties using the goods.
If the Buyer resells the goods delivered by TRAXIM, he must agree with his customers that they shall observe the said directions and instructions, and the Buyer must ensure that his customers are informed of all verbal directions and instructions from TRAXIM and/or that all written directions and instructions furnished by TRAXIM are handed to his customers.
- 13.2 If the goods supplied by TRAXIM are mounted on or built into other equipment by the Buyer, then the Buyer shall make certain that TRAXIM has provided him with the correct and appropriate instructions for mounting, installing and using the goods. The Buyer shall always strictly observe the mounting and installation instructions provided by TRAXIM.
- 14. Force majeure**
- 14.1 If TRAXIM fails in the performance of any obligation towards the Buyer such failure shall not be imputed to TRAXIM if it is hampered in or prevented from fulfilling such obligation by a circumstance, whether or not foreseeable, outside the control of TRAXIM, including but not limited to: breach of contract of suppliers and/or carriers - in particular late or non-delivery -, shortages on the market of required materials or labour, labour conflicts, sabotage, damage to plant, theft from warehouses of TRAXIM, government measures (including those of foreign governments) such as bans on transports, imports, exports or production, natural disasters, weather conditions, thunderbolts, fire, explosions, war or similar situations.
- 14.2 If such a situation of force majeure has lasted for six (6) months or if it appears certain that this situation will continue thus long, the Buyer will have the right to cancel the agreement.
- 15. Applicable law; competent court**
- 15.1 All agreements and any other legal relationships between TRAXIM and the Buyer are governed by Netherlands law, with the exclusion of the 1980 UN Convention on Contracts for the International Sale of Goods (CISG).
- 15.2 Any disputes between TRAXIM and the Buyer shall be submitted exclusively to the District Court of Roermond, the Netherlands.
However, TRAXIM has the right to commence proceedings in any other court which has jurisdiction pursuant to the law.