

Article 1 General

1.1 These general terms and conditions apply to all contractual relationships entered into with Heisterkamp Fleetservice B.V. This includes, but is not limited to, intermediary, purchase and repair agreements on both the sales and purchasing side and for both 'regular' service and maintenance work ('Fleet Service') and work in connection with breakdowns ('Breakdown Service').

Article 2 Formation of agreements

- 2.1** All offers made by the lessor, both verbal and written, are without obligation and qualify as Heisterkamp Fleetservice B.V. also trades under the name: 'Heisterkamp Breakdown Service' and variants thereof. Contractual relationships entered into with such entities are deemed to have been entered into with Heisterkamp Fleetservice B.V. Hereinafter Heisterkamp Fleetservice B.V. will be referred to as: 'Heisterkamp'.
- 2.2** A breakdown is defined as: '*an unplanned stoppage of a vehicle due to breakdown, damage, absence, damage or non-functioning of related parts and/or accessories as well as due to imposition of a fine by the authorities*'.
- 2.3** In case of a breakdown, Heisterkamp acts as an intermediary on the basis of an intermediary agreement for the benefit of a 'client'.
- 2.4** An intermediary agreement is concluded by Heisterkamp's acceptance of an offer, containing a breakdown report, to that effect to Heisterkamp. This report must be made by a person authorised to represent the client. A person authorised to represent means a director/owner of a company, a fleet manager, a planner or another person designated in writing in advance by the client. This person must be able to identify himself or herself as such.
- 2.5** Acceptance by Heisterkamp of the offer referred to in Article 2.4 may be oral or in writing, but must be made unequivocally. The record of this in Heisterkamp's systems is leading with regard to the proof of this.
- 2.6** After an intermediary agreement has been concluded, Heisterkamp shall endeavour on behalf of the client to effect the resolution of the breakdown, for which purpose Heisterkamp shall enter into one or more (repair) agreements with third parties, including possible salvage and towing costs. Heisterkamp shall in all cases qualify as a creditor of such a (repair) agreement or agreements, which specifically means that client shall be obliged to pay to Heisterkamp the amounts due pursuant to such an agreement or agreements. Otherwise, Heisterkamp is not a party to that agreement or those agreements.

Article 3 Rates and payment in the context of the Breakdown Service

- 3.1** Unless stated otherwise, all amounts to be charged by Heisterkamp are in euros and are exclusive of VAT.
- 3.2** For the services provided by Heisterkamp, the client owes an agency fee consisting of a fixed and a variable fee. Heisterkamp will notify the client of the amount of the fee when it accepts the client's offer as referred to in Article 2.5 of these terms and conditions. If possible, Heisterkamp will confirm this in writing.
- 3.3** If and insofar as other amounts are owed to Heisterkamp directly or to third parties engaged by Heisterkamp, for example on account of repairs, recovery and/or towing of the vehicle, delivery of parts or payment of a fine imposed by the authorities, the client shall owe these amounts to Heisterkamp. If and insofar as possible, Heisterkamp will communicate these amounts to the client in advance, whereby said amounts shall always be indicative.
- 3.4** Payment to Heisterkamp of amounts pursuant to agreements referred to in Article 3.3. shall result in full discharge.
- 3.5** Heisterkamp has the right to require that the amounts referred to in Articles 3.2 and 3.3 be paid prior to the provision of (further) services, in a manner to be indicated by Heisterkamp.
- 3.6** Heisterkamp is never obliged to submit underlying documents from third parties it has engaged, such as work orders, invoices or other documents relating to services provided by third parties.

Article 4 Liability and warranty in the context of the Breakdown Service

- 4.1** Heisterkamp is not a party to (repair) agreements concluded by Heisterkamp with third parties on behalf of the client. Therefore, Heisterkamp is not liable for any shortcomings in the performance of such agreements. Any liability for damage as a result of shortcomings in the performance of (repair) agreements concluded with third parties is expressly excluded by Heisterkamp.
- 4.2** If and insofar as a guarantee applies to the work carried out by third parties engaged by Heisterkamp, any claims on that basis must be exercised by the client directly with those third parties.
- 4.3** If, for any reason, the client is dissatisfied with the performance of the work by the third parties engaged by Heisterkamp, the client shall inform Heisterkamp thereof without delay, but no later than 12 hours after completion of the work. Heisterkamp will then make every effort or mediate in order to reach a solution between the client and the third party. Heisterkamp can never be held responsible for any disobligingness on the part of third parties. Situations as described in this article shall never give cause to suspension, discount or settlement of amounts due to Heisterkamp.
- 4.4** In the event of emergency or provisional repairs being carried out by the third parties engaged by Heisterkamp, the client is expected to present the vehicle himself as soon as possible to his own preferred workshop to have a permanent repair carried out. Use of the vehicle when such emergency or provisional repairs have been carried out can never give rise to any liability on the part of Heisterkamp.

Article 5 Termination of an contract with the client in the context of the Breakdown Service

- 5.1** Heisterkamp is at all times free to terminate the agency agreement with immediate effect and without giving reasons. Reasons may include the impossibility of reaching a solution, anticipated

payment difficulties on the part of the client, anticipated other defaults and/or anticipated other problems in the performance of the agreement.

- 5.2** The termination of the agency agreement shall never give rise to any liability on the part of Heisterkamp.
- 5.3** In the event of early termination of the contract, the client shall at all times owe Heisterkamp the fixed fee as well as the actual costs charged by third parties in connection with the (repair) agreements.

Article 6 Conclusion and performance of agreements with suppliers relating to the Breakdown Service

- 6.1** Heisterkamp acts as an intermediary between its clients and suppliers, in order to resolve any vehicle breakdown experienced by the client. Heisterkamp shall never act on its own behalf, not even if it acts in its own name, but only on behalf of and at the expense and risk of its clients. The supplier is the party requested by Heisterkamp to remedy a breakdown as defined in Article 2.2.
- 6.2** The provision in Article 6.1 also applies if Heisterkamp pays an invoice addressed to it by the supplier.
- 6.3** An agreement between a client of Heisterkamp and a supplier is established by the acceptance by Heisterkamp of an offer made by the supplier. This is the case, for example, if the supplier agrees to a request for assistance from Heisterkamp by means of a repair order to be received or in the event of Heisterkamp agreeing to a (price/repair) proposal from the supplier.
- 6.4** Unless the client of Heisterkamp determines otherwise, Heisterkamp shall always be entitled to give instructions to the supplier during the performance of the (repair) work.
- 6.5** Any general terms and conditions applied by the supplier shall never apply to the relationship or agreement(s) between Heisterkamp or its client and the supplier.
- 6.6** Offers made by the supplier are never without obligation and qualify as an offer that may be accepted by Heisterkamp at any time.
- 6.7** Prices issued by the supplier are fixed and cannot be raised unilaterally by the supplier.
- 6.8** Any additional work or extra costs will not be eligible for compensation, unless these have been approved by Heisterkamp in writing in advance by means of a payment guarantee.
- 6.9** The supplier warrants that the materials/parts it supplies are original, new and have been brought into circulation in the correct manner, unless explicitly stated otherwise in writing. Furthermore, the supplier warrants that the services provided by the supplier are carried out in a professional manner.
- 6.10** Unless agreed otherwise, a general six-month warranty shall apply to work carried out by the supplier and parts supplied, in addition to any manufacturer's warranty. This shall apply unless the nature of the work prevents the assumption of such a warranty period, as, for example, in the case of emergency or provisional repairs, provided it has been expressly agreed.
- 6.11** After conclusion of the agreement with the supplier, it cannot be unilaterally terminated by either party. Heisterkamp or its client is only permitted to terminate the agreement if the supplier fails to remedy the breakdown within a reasonable period of time. If the supplier terminates the agreement in spite of the provisions of this article, the supplier shall be obliged to compensate all damage incurred as a result.
- 6.12** The supplier undertakes to maintain confidentiality regarding the performance of the agreement with Heisterkamp or Heisterkamp's client. This confidentiality applies in particular to the identity of (the client of) Heisterkamp and the rates charged. The supplier is not permitted to use Heisterkamp's image and/or other Heisterkamp brands without Heisterkamp's permission.

Article 7 Conclusion and performance of Fleet Service agreements

- 7.1** For 'regular' maintenance and activities such as repairs outside the context of a breakdown, Heisterkamp and the 'client' can enter into an agreement ('service contract'), on the basis of which such maintenance and repairs can be carried out periodically. 'Client' shall mean the party with power of disposal over the vehicle for which a service contract is concluded.
- 7.2** In the service contract, the parties agree on a (periodic) fee for which Heisterkamp will carry out the maintenance and other work included in that service contract.
- 7.3** If activities fall outside the scope of the service contract, or if the costs are passed on directly to the client for other reasons (for example, if the fees paid by the client under the service contract are insufficient), Heisterkamp will inform the client accordingly, in advance to the extent possible. The provisions in this article is exclusively at Heisterkamp's discretion.
- 7.4** If the service contract includes preferred workshops, the client shall be permitted to contact the preferred workshop in question directly to schedule maintenance and other work. The client is obliged to clearly instruct the preferred workshop that a service contract has been concluded for the vehicle with Heisterkamp. If the client fails to do so, the fee charged by the preferred workshop shall remain or become payable by the client.
- 7.5** If the service contract does not include any preferred workshops, or if the client does not wish to use one of the workshops included in the service contract, maintenance and/or other work will be carried out at another workshop to be designated (exclusively) by Heisterkamp on the basis of conditions approved by Heisterkamp in advance. During the term of the service contract, the client is in no case permitted to have maintenance and/or other work carried out without Heisterkamp's permission.
- 7.6** Heisterkamp is never obliged to submit underlying documents from third parties it has engaged, such as work orders, invoices or other documents relating to services provided by third parties.

Article 8 Conclusion and performance of agreements with suppliers in the Fleet Service framework

- 8.1** In the performance of the service contract referred to in Article 7.1 of these general terms and conditions, Heisterkamp may request suppliers to carry out work on vehicles of Heisterkamp's clients. A framework agreement shall be concluded between Heisterkamp and the supplier where possible, on the basis of which the supplier will carry out one or more maintenance and/or other activities on vehicles belonging to Heisterkamp's clients. The supplier can be designated as Heisterkamp's preferred workshop.
- 8.2** If a preferred workshop receives a request from one of Heisterkamp's clients directly to carry out maintenance and/or other work, the preferred workshop will, prior to carrying out the work, send Heisterkamp photographs of the parts of the vehicle on which the work is to be carried out and a quotation for the work. The preferred workshop may only commence work after it has received an order number from Heisterkamp for the work. The provisions in this article do not apply to activities with a financial interest of less than €250.
- 8.3** In all cases in which Heisterkamp enters into an agreement for the performance of maintenance and/or other work for its clients with a supplier who is not a preferred workshop of Heisterkamp as referred to in Article 8.2, the supplier and Heisterkamp shall in each case enter into a new agreement. Part of such an agreement is a quotation and photographs of the work to be carried out, on the basis of which Heisterkamp provides the supplier with an order number. A price quotation issued by the supplier is binding and fixed.
- 8.4** Any general terms and conditions used by the supplier are never applicable to agreements between Heisterkamp and the supplier.
- 8.5** Any additional work or extra costs over and above the quotation referred to in Article 8.3 will not be eligible for compensation, unless approved in advance by Heisterkamp in writing.
- 8.6** The supplier warrants that the materials/parts it supplies are original, new and have been brought into circulation in the correct manner, unless explicitly stated otherwise in writing. Furthermore, the supplier warrants that the services provided by the supplier are carried out in a professional manner.
- 8.7** Unless agreed otherwise, a general six-month warranty shall apply to work carried out by the supplier and parts supplied, in addition to any manufacturer's warranty. This shall apply unless the nature of the work prevents the assumption of such a warranty period, as, for example, in the case of emergency or provisional repairs, provided it has been expressly agreed.
- 8.8** A framework agreement between Heisterkamp and supplier as referred to in Article 8.1 is entered into for the term specified in the framework agreement. On expiry of the period laid down in that agreement, or in the absence of any such period, the framework agreement shall continue for an indefinite period. A framework agreement may be terminated by either party subject to three months' notice.
- 8.9** The supplier is obliged to maintain confidentiality concerning the performance of the agreement with Heisterkamp. This confidentiality applies in particular to the identity of Heisterkamp (or its client) and the rates charged, which may also not be shared with the client of Heisterkamp. The supplier is not permitted to use Heisterkamp's image and/or other Heisterkamp brands without Heisterkamp's permission.

Article 9 Payments

- 9.1** The Client owes the agreed payment at the agreed time. If he fails to pay, the payment term of Heisterkamp's invoices shall be 30 (thirty) days. Payment terms (used by the client) that deviate from these will not be accepted by Heisterkamp, unless expressly agreed in writing. For payments from Heisterkamp to supplier a fixed payment term applies of 30 days after receipt of a legally valid invoice.
- 9.2** The client is expressly not permitted to set off counterclaims (whether or not established) against invoices payable by the client. Nor is the client permitted to suspend payments. If, contrary to this provision, the client nevertheless proceeds to set off or suspend, the client shall forfeit an immediately payable penalty of half (50%) of the amount set off or suspended, notwithstanding the client's obligation to pay the amount owed to Heisterkamp in full.
- 9.3** Heisterkamp has the right to suspend payments to its supplier if Heisterkamp's client fails to pay the invoice issued by Heisterkamp to the client.
- 9.4** The period stated in Article 9.1 is a deadline as referred to in Article 6: 83a of the Dutch Civil Code. If payment is not made on time, the client shall be immediately in default by operation of law.
- 9.5** If the client is in default in accordance with Article 8.3, it shall owe Heisterkamp the statutory commercial interest plus 5% from the date on which the default commences until the date of full payment in accordance with Article 6:119a in conjunction with Article 6:120(2) of the Dutch Civil Code. The client shall also owe Heisterkamp the judicial and extrajudicial costs incurred by it in order to hold the client to its (payment) obligations. The amount of the extrajudicial costs is set at 15% of the amount to be claimed, without prejudice to Heisterkamp's right to claim additional damages. Heisterkamp is entitled to charge these costs from the moment it has demanded payment from the client.

Article 10 Applicable law and choice of forum

- 10.1** All agreements for the delivery of products and/or provision of services, as well as all price quotations related thereto, shall be governed by Dutch law.
- 10.2** Any dispute concerning the conclusion, the interpretation or the performance of the Agreement or of further agreements that may arise from it, as well as any other dispute concerning or related to the Agreement, whether legal or factual, will be submitted to the competent court of the District Court of Overijssel.